

**ALABAMA LAWS**  
**(and Joint Resolutions)**  
**OF THE**  
**LEGISLATURE OF ALABAMA**

**PASSED AT THE**  
**REGULAR SESSION, 1989**

**VOL. 2**



**GUY HUNT, Governor**  
**JIM FOLSOM, JR., Lieutenant Governor**  
**RYAN DEGRAFFENRIED, President Pro-Tem of the Senate**  
**JAMES S. CLARK, Speaker of the House**  
**JAMES M. CAMPBELL, Speaker Pro-Tem of the House**  
**McDOWELL LEE, Secretary of the Senate**  
**JOHN W. PEMBERTON, Clerk of the House**

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**WITH AN INDEX PREPARED BY THE**  
**LEGISLATIVE REFERENCE SERVICE**

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The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1989 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Glen Browder  
Secretary of State

“WHEREVER LAW ENDS, TYRANNY BEGINS. . . .”

John Locke, *Second Treatise of Civil Government* (1690)

The words of John Locke, written approximately three centuries ago, demonstrate the importance of law in a democratic society. Equally important in a democracy is the public’s “right to know” about the laws of government, a right which is protected by the United States Constitution, the Alabama Constitution, and the Code of Alabama.

The Secretary of State is required by the Code of Alabama to publish and make available the laws and resolutions of the Legislature. However, many people are due the credit for making these volumes possible, including, McDowell Lee, Secretary of the Senate; John Pemberton, Clerk of the House of Representatives; Ann Worthington and Julie Saint, enrolling and engrossing clerks; Dodie Pappanastos and Helen Thorington, technical proofreaders; Carla Lockwood, recording secretary for the Governor; Louis Greene, Director of the Legislative Reference Service; Hannah Bates and Brenda Colvin of the Secretary of State’s office.

Suggestions regarding the organization, publication, and distribution of these Acts of Alabama are welcomed.

Glen Browder  
Secretary of State



**ALABAMA LAWS**  
**And Joint Resolutions**  
**REGULAR SESSION 1989**

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Act No. 89-532

S. 402—Senator Denton

**AN ACT**

To amend Sections 13A-8-80, 13A-8-81, 13A-8-82, 13A-8-83, 13A-8-84 and 13A-8-86, Code of Alabama 1975, which prohibit the copying and sale of certain recorded devices, so as to further prohibit such copying and sales and to increase the penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 13A-8-80, 13A-8-81, 13A-8-82, 13A-8-83, 13A-8-84 and 13A-8-86, Code of Alabama 1975, are hereby amended to read as follows:

“§13A-8-80.

“Unless the context clearly requires otherwise, the term ‘owner,’ as used in this article, shall mean the person who owns, or has the exclusive license in the United States to reproduce or the exclusive license in the United States to distribute to the public copies of the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films, videocassettes or other articles now known or later developed on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or to authorize the recording of a live performance.”

“§13-8-81.

“It shall be a felony for any person to:

“(1) Knowingly transfer or cause to be transferred, directly or indirectly, by any means, any sounds recorded on a phonograph record, disc, wire, tape, film, videocassette or other article now known or later developed on which sounds are recorded, with the intent, for commercial advantage or private financial gain, to sell or rent, or cause to be sold or rented, or to be used for profit through public performance, such article on which sounds are so transferred, without consent of the owner;

“(2) Knowingly transfer or cause to be transferred, directly or indirectly, by any means, onto any phonograph record, disc, wire,

tape, film, videocassette or other article now known or later developed, any live performance, for commercial advantage or private financial gain, without the consent of the owner; or

“(3) Manufacture, distribute, transport or wholesale any article with the knowledge that the sounds or performances are so transferred without consent of the owner.

“(4) The provisions of this section shall not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with broadcast or telecast transmission or related uses, or for archival purposes.

“(5) Penalties for violations hereof are prescribed in section 13A-8-86(a).

“(6) Subsection 13A-8-81(1) applies only to sound recordings that were initially fixed prior to February 15, 1972.

“(7) In the absence of a written agreement or operation of law to the contrary, the performer or performers of the live performance shall be presumed to own the rights to record or authorize the recording of the live performance. In any proceeding where a performer's consent is in issue, a person who is authorized to maintain custody and control over business records reflecting consent shall be considered a proper witness, subject to all rules of evidence relating to competency and admissibility.”

“§13A-8-82.

“(1) It shall be unlawful for any person to knowingly sell, rent, cause to be sold or rented, or possess for the purpose of selling or renting any recorded device that has been produced, manufactured, distributed or acquired in violation of any provision of this article.

“(2) Penalties for violations hereof are prescribed in section 13A-8-86(b).

“§13A-8-83.

“Every recorded device sold, rented or transferred for commercial advantage or private financial gain, or possessed for the purpose of sale, rental or transfer by any manufacturer, distributor or wholesale or retail merchant shall contain on its packaging the true name and address of the manufacturer; provided, that the term ‘manufacturer’ shall not include the manufacturer of the cartridge or casing itself, but shall mean the manufacturer of the actual recorded material. The term ‘recorded device’ means the tangible medium upon which sounds or images are recorded or otherwise stored, and includes any phonograph record, disc, wire, tape, videocassette, film, or other

medium now known or later developed on which sounds or images are recorded or otherwise stored.”

“§13A-8-84.

“It shall be the duty of any state, county or local law enforcement officer to confiscate all recorded material that do not conform to the provisions of this article and all equipment and components used or intended to be used in the manufacture of the infringing recordings and to deliver the nonconforming recorded devices, equipment and components to the state attorney general or the appropriate local district attorney of the judicial district in which the confiscation was made. The provisions of this section shall apply to any nonconforming recording, regardless of lack of knowledge or intent on the part of the retail seller.”

“§13A-8-86.

“(a) Each separate manufacture, distribution, sale or transfer at wholesale of any unauthorized recording in contravention of the provisions of this article shall upon conviction constitute a separate offense punishable as follows:

“(1) If the offense involves not less than 1,000 unlawful sound recordings or not less than 65 audio visual recordings, by imprisonment not less than three years, nor more than ten years, or by a fine of not more than \$250,000.00 or both.

“(2) For any other offense not described in subparagraph (a)(1), by imprisonment not less than one year, nor more than three years, or by fine of not more than \$25,000.00 for the first offense, or both, and by imprisonment not less than three years nor more than 10 years, or by fine of not more than \$100,000.00, or both, for any subsequent offense.

“(b) Each separate sale, rental or possession for sale or rental of any recording, not described in paragraph (a), in contravention of the provisions of this article shall upon conviction constitute a separate offense punishable as follows:

“(1) If the offense involves not less than 100 unlawful sound recordings or not less than seven unlawful audio visual recordings, or if the offense is a subsequent offense, by imprisonment not less than one year nor more than five years, or by a fine of not more than \$250,000.00 or both.

“(2) For any other offense not described in subparagraph (b)(1), by imprisonment for not more than one year, or by a fine of not more than \$25,000.00 or both.

“(c) If a person is convicted of any offense under this article, the court in its judgment of conviction shall order the forfeiture and

destruction or other disposition of all infringing recordings and of all equipment and components used or intended to be used in the manufacture of the infringing recordings, as provided in section 13A-8-84."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:40 P.M.

Act No. 89-533

S. 326—Senators Cabaniss, Drinkard,  
deGraffenried, Dial, Bailey,  
Campbell and Foshee

### AN ACT

To create the Alabama Workmen's Compensation Self-Insurers Guaranty Association; to provide for its membership and the management of the affairs of the Board of Directors of the Association; to provide that it may assess its members to fund an insolvency fund; and to provide that the Department of Industrial Relations shall regulate the Association.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is created a nonprofit corporation to be known as the "Alabama Workmen's Compensation Self-Insurers Guaranty Association, Incorporated," hereinafter referred to as "the Association." The purpose of the Association shall be to create and fund an insolvency fund to assure payment of workmen's compensation claims due from self-insuring employers who are members of the Association and who become insolvent. The Association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10 of the Code of Alabama, 1975, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase such insurance and reinsurance as is deemed necessary.

**Section 2.** (a) All employers who elect to be self-insurers for workmen's compensation as provided in Section 25-5-8(b) Code of Alabama, 1975, as amended, other than self-insurers which are governmental entities, or public utilities, shall be members of the Association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

(b) Membership in the Association shall cease when the employer terminates its self-insurance election. However, terminating members

shall be and remain liable for the period of time which they were members of the Association and for any subsequent assessments made for that period.

(c) Membership in the Association may be terminated for non-payment of assessments.

(d) The Association shall not issue stock and its members shall not, as such, be liable for its obligations.

**Section 3.** The affairs of the Association shall be managed by a Board of Directors which shall consist of nine (9) persons appointed by the Director of the Department of Industrial Relations. To be eligible for appointment, a person must be an owner, employee or agent of a member self-insurer, and should be experienced in the field. In the initial appointments, four (4) directors shall be appointed for a two (2) year term and five (5) shall be appointed for a four (4) year term. Subsequent terms shall be for a period of four (4) years. Vacancies on the Board shall be filled for the unexpired portion of the term in the same manner. Directors shall be entitled to no compensation for their services as such, but shall be entitled to reimbursement from the Association of expenses incurred in carrying out their duties. The Board of Directors shall designate a registered office and appoint a registered agent and shall continuously maintain the same, and shall file with the Secretary of State a certification thereof.

**Section 4.** (a) Within 120 days after their appointment, the Board of Directors shall propose to the Director of the Department of Industrial Relations a set of by-laws for the operation and administration of the Association. The by-laws shall not be effective until approved by the Director of the Department of Industrial Relations. If the Board of Directors fails to submit by-laws or if the Director of the Department of Industrial Relations does not approve the submitted by-laws, then the Director of the Department of Industrial Relations may promulgate, subject to the provisions of the Administrative Procedures Act, appropriate rules and regulations for the administration of the Association.

(b) The by-laws may be amended from time to time by proposal of the Board of Directors approved by the Director of the Department of Industrial Relations.

(c) The by-laws shall contain:

1. Provisions governing the administration of the Association.
2. Provisions governing managing the assets of the Association and its financial record keeping.
3. Procedures by which claims may be filed with the Association.

4. Provisions for the times and places for call of and conduct of meetings of the Board of Directors.

5. Procedures for terminating the membership of a member who does not pay assessments when due.

6. Procedures for recommendations by members of candidates for the Board of Directors for submission to the director of the Department of Industrial Relations.

7. Such additional provisions as are necessary or proper for carrying out the purposes of the Association.

**Section 5.** (a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the Association may levy annual assessments on members of the Association at a rate not to exceed \$15 per \$1,000 of security amount established by the Department for the respective members. Assessments shall be remitted to and administered by the Association as provided in the by-laws. The rate of annual assessments against members of the Association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the Association may levy a special assessment on members of the Association at a rate not to exceed \$15 per \$1,000 of security amount established by the Department for each member, but such special assessment may not be levied more than once in each calendar year.

(c) No state funds shall be allocated or paid to the Association except those funds which may accrue to the Association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the State or the participants in the Association.

**Section 6.** Upon receipt of the funds assessed on members, the Association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

(a) The fund is created for the purpose of assuring payment of workmen's compensation claims against members of the Association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the Association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the Workmen's Compensation Act, in an amount not to exceed 150% of the amount of security as determined by the

Department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

(b) It shall be the duty of the Department of Industrial Relations to determine insolvency of any self-insurer employers, and to notify the Association of its determination. Members and Directors of the Association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

(c) The Director of the Department of Industrial Relations, or his representative, will at all reasonable times have full and free access to the books and records of the Association and may audit the Association's financial affairs as he deems necessary. Should the Director deem the balance in the insolvency fund insufficient to meet projected liabilities, he shall inform the Board of Directors, and after consultation with them, he shall set the amount which he deems sufficient and the Board of Directors shall levy assessments as provided herein to secure that amount.

(d) The Association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all such claims and expenses of administration.

(e) If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available.

**Section 7.** The Association shall be subject to examination and regulation by the Department of Industrial Relations. No later than March 30 of each year, the Board of Directors shall submit a financial report for the preceding calendar year in a form approved by the Department.

**Section 8.** A member may deduct as a business expense for state income tax purposes any assessment levied under Section 5 in the year such assessments are paid.

**Section 9.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 11.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:41 P.M.

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Act No. 89-534

S. 297—Senator Bedsole

### AN ACT

To amend Section 9-11-246, Code of Alabama 1975, as last amended, relating to the penalties for the violation of Sections 9-11-244 and 9-11-245, Code of Alabama 1975, so as to increase and further provide for the penalties for violating Section 9-11-244 with respect to deer or turkey.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-11-246, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

“Section 9-11-246.

“Any person who violates any of the provisions of sections 9-11-244 or 9-11-245 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25.00 nor more than \$100.00 for each offense. Any person convicted the second time of violating sections 9-11-244 or 9-11-245 shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than \$250.00 and, at the discretion of the court, may also be imprisoned in the county jail for not longer than six months. Any person convicted of violating sections 9-11-244 or 9-11-245 the third or subsequent times shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 nor more than \$500.00 and, at the discretion of the court, may also be imprisoned in the county jail for not longer than six months. Notwithstanding anything herein to the contrary, any person who violates the provisions of section 9-11-244 with respect to the taking, catching, killing, or attempting to take, catch, or kill, deer or turkey, shall be guilty of a misdemeanor and, upon conviction, shall be punished for the first offense by a fine of not less than \$250.00 nor more than \$500.00, and at the discretion of the court may have all hunting privileges revoked for up to one (1) year from the date of conviction. The second and each subsequent offense shall be punished by a fine of not less than \$500.00 nor more than \$2,000.00, and the automatic loss of hunting privileges for one (1) year from the date of conviction,



and, at the discretion of the trial court judge, imprisonment in the county jail for a period of not less than 10 nor more than 30 days.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:42 P.M.

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Act No. 89-535

S. 286—Senator Covington

### AN ACT

Relating to the further regulation of liquefied petroleum gas and the powers, duties and authority of the Liquefied Petroleum Gas Board; to amend Sections 9-17-100, 9-17-102, 9-17-104, 9-17-106, 9-17-107, 9-17-108, and 9-17-109 of the Code of Alabama 1975, as amended; to amend Sections 9-17-101 and 9-17-105 of the Code of Alabama 1975, as amended by Act No. 88-142 of the 1988 Regular Session; and to provide for administrative remedies with rights to appeal for correcting noncompliance with law and with regulations of the Liquefied Petroleum Gas Board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 9-17-100, 9-17-102, 9-17-104, 9-17-106, 9-17-107, 9-17-108 and 9-17-109 of the Code of Alabama 1975, and Sections 9-17-101 and 9-17-105 of the Code of Alabama 1975, as amended by Act No. 88-142 of the 1988 Regular Session are hereby amended to read as follows:

“§9-17-100.

“As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) LIQUEFIED PETROLEUM GAS. Any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons either by themselves or as mixtures of the same: propane, propylene, butanes (normal butane or isobutane) and butylenes.

“(2) LP-GAS. Liquefied petroleum gas.

“(3) LPG. Liquefied petroleum gas.

“(4) LP. Liquefied petroleum gas.

“(5) BOARD. The Alabama liquefied petroleum gas board.

“(6) PERSON. Every natural person, firm, copartnership, association or corporation.

“(7) LIQUEFIED PETROLEUM GAS SYSTEM. Any assembly consisting of one or more containers with a means for conveying LP-gas from the container(s) to dispensing or consuming devices (either continuously or intermittently) and which incorporates components intended to achieve control of quality, flow, pressure, or state (either liquid or vapor).

“(8) RED TAG. A card or device red in color, containing printed notice of the condemnation of a liquefied petroleum gas system or any connected or disconnected LP-gas component, LP-gas storage container, LP-gas container appurtenance, or to an LP-gas motor vehicle, transport or delivery unit placed as result of a violation of the liquefied petroleum gas safety code provisions and regulations or as a result of a mechanical defect found on the LP-gas motor vehicle, transport or delivery unit that could cause a danger to the public if said vehicle was allowed to continue to operate which when attached to such system or to any connected or disconnected LP-gas component, LP-gas storage container, LP-gas appurtenances, motor vehicle, transport or delivery unit is official notice of condemnation and of the prohibition of further use, so long as said red tag remains affixed by law.

“(9) BRANCH. A local unit of an LP-gas business which may be defined as one or more of the following: a division or subdivision or a person doing business under a name other than the Class A permit holder's name; a place where the day-to-day retail operations of an LP-gas business are conducted and shall include at least three of the following: sales of appliances; orders for LP-gas repair and service; orders to refill LP-gas systems either by phone or in person; manned during a normal workday; a place where a local, city and/or county business license is required to do business.

“(10) AUTHORITY HAVING JURISDICTION. Alabama Liquefied Petroleum Gas Board.

“§9-17-101.

“There is hereby created and established the Alabama liquefied petroleum gas board. Such board shall be composed of seven members: the state fire marshal; the state director of public safety; the president of the Alabama public service commission; and four members who are representatives of the liquefied petroleum gas retail Class A permit holders.

"Members of the board who are representatives of the liquefied petroleum gas retail permit holders shall have been legal residents of the state of Alabama for at least five years next preceding the date of appointment and shall have been actively engaged in the retail distribution of liquefied petroleum gas in this state for a period of at least five years. No retail Class A permit holder shall have more than one representative on the board at any one time. It is the legislative intent that no single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, be represented on the board by more than one representative at any one time.

"From each of four substantially equal geographical areas of the state, designated as the southeast, the northeast, the northwest, and the southwest, the governor shall appoint one retail permit holder member of the board. Such member shall be appointed from a list of at least three nominees receiving the largest number of votes according to written ballots executed by representatives of retail Class A permit holders.

"In the event the governor has not appointed a board member at the end of 90 days after the list of retail permit holders has been submitted to him, the person on the list having the most votes shall become a board member. In the event of a tie for the most votes a majority vote of the board members will select which person of those tied will become the board member.

"In the event a vacancy occurs during a board member's term, the three then eligible retail permit holders having received the most votes from the election which was held to select the board member for which the vacancy occurred shall be submitted to the governor for his appointment. In the event an appointment has not been made in the 90 days, the same process shall be used for the election as in the above paragraph.

"The balloting shall be conducted by the administrator of the board under the direction and supervision of the board. For such appointments, the administrator shall forward by registered or certified mail an official ballot to each retail permit holder or his duly designated representative with instructions for executing the ballot and returning it to the board. The terms of all such members shall be for four years, but no member shall be denied the right to succeed himself, provided however, no member shall serve more than two consecutive terms of office.

"The board shall elect its own chairman and vice-chairman at its first regular meeting each calendar year. All meetings of the board shall be held at Montgomery, Alabama and shall be on a prescribed date, at least quarterly, and at such time as the majority of the

board members may request in writing to the board chairman. Any four members shall constitute a quorum for the transaction of any business which may come before the board. The board shall have the power to adopt bylaws and rules of administrative procedure, pursuant to the state administrative procedure statutes.

“The board shall have the power and authority to promulgate rules and regulations having the force and effect of law to carry out the provisions of this article.

“§9-17-102.

“Board members shall receive travel expenses and per diem based at the rate that is currently prescribed by the state for its state employees, while attending official meetings of the board or while attending to official board business. Except that per diem paid to board members shall be no less than one full day's per diem, and payment shall be based on attendance at a board meeting rather than the time of arrival and departure. No member of the board shall receive per diem and expense allowance for more than 30 days in any one calendar year.

“§9-17-104.

“The board shall appoint an administrator and have power over his dismissal and shall fix his compensation. Before entering upon the duties of his office, such officer shall make and file with the secretary of state an official bond in an amount to be fixed by the board, premiums on which shall be paid out of funds of the board. Said bond shall be payable to the state of Alabama and shall be written by an approved insurance company qualified to do business in the state of Alabama. The board shall prescribe the duties of the administrator of the board and shall adopt a seal which shall be in the care and custody of the administrator. The board shall have authority, subject to the provisions of the merit system, to employ such assistants and inspectors as may be necessary to carry out the provisions of this article and shall prescribe their duties. Also, the board may, without regard to the Merit System Act, engage and employ such consultants and technical advisors as it may deem necessary in carrying out its responsibilities.

“The administrator and duly appointed inspectors employed by the liquefied petroleum gas board shall be and are hereby constituted peace officers of the state of Alabama and are clothed with the powers of peace officers and deputy sheriffs and may exercise such powers anywhere within the state. They shall be authorized and empowered to arrest violators of the Alabama liquefied petroleum gas fuel tax laws, sections 40-17-160 through 40-17-166, and any state law or federal law or regulation adopted by the liquefied petroleum gas board relating to the transportation of liquefied petroleum gas and to carry

such violators before the district court in the county in which the violation is committed. In addition, the board administrator and the board inspectors shall have the powers and authority to issue a uniform traffic citation to any person violating the provisions of said sections 40-17-160 through 40-17-166 and any state law or federal law or regulation adopted by the liquefied petroleum gas board relating to the transportation of liquefied petroleum gas.

"All fees and penalties collected under the provisions of this article are otherwise inuring to the credit of the board shall be deposited in the state treasury in a fund to be designated the 'liquefied petroleum gas board fund,' which fund is hereby established. All expenditures from said fund shall be subject to the terms, conditions, provisions and limitations of Title 41, chapter 4, article 4. All balances in said fund in excess of \$100,000.00 at the end of each fiscal year shall be transferred to the state general fund.

"§9-17-105.

"(a) The board shall have the power to issue permits to any person to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems or to perform magnetic, hydrostatic or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders in the state of Alabama and to prescribe the requirements of such person to obtain such permits. The board shall have the power to revoke any such permit issued, for cause, in the opinion of the board.

"(b) The permits shall be of seven types:

"(1) PERMIT A. Shall give the holder a right to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail. Before any person shall engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases, except where the liquefied petroleum gas so handled is in quantities of less than one gallon U.S. water capacity and is an integral part of a device for its utilization, or before any person shall engage in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail in the state of Alabama, such person shall first obtain from the board a Permit A and shall execute and file with the board a bond and the insurance herein required.

"The board shall require every applicant for Permit A to present evidence to the board that he has a bona fide contract or a letter

of intent to sell, from a reputable supplier of liquefied petroleum gas for an amount of such gases that is sufficient to supply the customers he has estimated that he will serve. In addition to the requirement of possessing a Class A permit, persons doing business as or in a name other than the name listed on the Class A permit shall be required to have a separate Class B-1 permit unless the person doing business as or in another name has a separate Class A permit for each such business.

“(2) PERMIT B. Shall give the holder a right to engage in or continue in business of transporting, storing, distributing and/or selling liquefied petroleum gas at wholesale or in unit quantities of 5,000 gallons or more at retail to end users or act as wholesaler distributors, suppliers or agents thereof or act as a consignor or shipper that delivers or causes LP-gas to be delivered in the state of Alabama. Before any person shall engage in or continue in the business of transporting, storing, distributing and/or selling liquefied petroleum gas at wholesale in any quantity to retailers or to retail to end users in unit quantities of 5,000 gallons or more or to other wholesaler distributors, suppliers or agents thereof in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit B and shall execute and file a bond and the insurance required herein except that those wholesale distributors, suppliers, consignors, shippers or agents thereof who only sell liquefied petroleum gas at wholesale and transport no such gas in the state shall not be required to file a motor vehicle or general liability certificate of insurance with the board. Class B permit holders shall keep records and shall report monthly and at such other times as the board shall deem necessary all sales of liquefied petroleum gas made to retailers, end users and to other wholesale distributors, suppliers or agents thereof in this state. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in Section 9-17-109. Any person possessing a valid Class A permit shall not be required to obtain a Class B permit.

“(3) PERMIT B-1. Shall give the holder a right to operate an individual branch, division, subdivision or act as an agent of a Class A permit holder to engage in or continue in the business of selling, storing or transporting liquefied petroleum gases at retail and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tank or systems at retail. Authorized agents of Class B-1 permit holders who only operate off-premise cylinder filling stations shall not be required to obtain a Class B-1 permit.

“The board or the board administrator may authorize any person to act as an agent of a Class A or B-1 permit holder to install,

service, repair, adjust or inspect liquefied petroleum gas containers, tanks and systems without obtaining a Class B-1 permit; provided that such authorized agents shall have completed the board's certification requirements and the said permit holder shall have provided the board with proof that such agents have met the insurance and surety bond requirements of Section 9-17-105. Such authorized agents shall not be required to meet the storage requirements of Section 9-17-107.

"Before any person shall engage in or continue in the operation of an individual branch, division, subdivision or act as an agent of a valid Class A permit holder to sell, store, transport liquefied petroleum gas and to sell, install, service repair or adjust liquefied gas containers, tanks and systems at retail, said person must first obtain from the board a Permit B-1 and shall meet the minimum storage requirements set out in Section 9-17-107 and shall execute and file with the board a bond and the insurance herein required. Branches that were in operation when this article became law shall not be required to meet the storage requirement of Section 9-17-107. Class B-1 permit holder shall not be required to file or maintain separate or additional insurance or bond contracts as specified by this section provided that the Class B-1 permit holder is included in the parent company's Class A permit insurance and bond contract on file with the board.

"(4) PERMIT C. Shall give the holder a right to engage in or continue in the business of installing, servicing, repairing or adjusting liquefied petroleum gas piping and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, or to perform magnetic, hydrostatic, or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders. Before any person shall engage in or continue in the business of installing, servicing, repairing or adjusting liquefied petroleum gas piping, and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, or performing magnetic, hydrostatic or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit C and execute and file with the board a bond and the insurance herein required.

"(5) PERMIT D. Shall give the holder a right to engage in or continue in the business of installing and/or repairing of bulk storage systems of 5,000 gallons water capacity or more in single containers or in an aggregate of 5,000 gallons water capacity of a multi-container installation only. Before any person shall engage in or continue in the business of installing bulk storage systems of 5,000 gallons water

capacity or more in single containers or in a multi-container installation of an aggregate of 5,000 gallons water capacity, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit D and shall execute and file with the board a bond and the insurance herein required.

"The board shall require holders of a Permit D to submit plans for any proposed installation of any liquefied petroleum gas storage facility he is planning to install that is authorized under the terms of his permit. He must obtain approval for the location and for the plans from the administrator of the board before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used. A minimum fee of \$200.00 must be paid to the board at the time the plans for each facility are presented for approval. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site that is required shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by action of the board.

"(6) PERMIT E. Shall give the holder a right to engage in or continue in the business of calibration and/or repair of liquefied petroleum gas liquid meters.

"Before any person shall engage in or continue in the business of calibration and/or repair of liquefied petroleum gas liquid meters, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit E and shall execute and file with the board a bond and the insurance herein required.

"(7) PERMIT F. Shall give the holder the right to engage in or continue in the business of filling cylinders and/or motor fuel containers of less than 351 pounds water capacity from a stationary filling station. Before any person shall engage in or continue in the business of filling cylinders and/or motor fuel containers and not being a holder or an agent of a Permit A or Permit B-1, they must first obtain from the board a Permit F and shall execute and file with the board a bond and insurance herein required. A separate permit, bond and insurance certificate shall be required for each filling station.

"(8) The administrator may issue temporary Class B, C, D, E and F permits as soon as all requirements have been met. The temporary permit shall remain in effect until the next regular board meeting unless the board extends the effective date of any such temporary permit by official action.

"(c) The required bond for Permits A, B, B-1, C, D, E and F shall be in the sum of \$5,000.00 payable to the state of Alabama,



and conditioned on the full compliance with the provisions of this article. Said bond shall be written by an insurance company qualified to do business in the state of Alabama. In lieu of such surety bond a personal bond in the amount of \$5,000.00 may be used; provided, that the same is secured by bonds or other obligation of the state of Alabama or the United States government of equal value. Surety bonds issued by insurance companies shall be filed on a form provided by the board. When personal bonds in the form of cash or other obligations of equal values are used in lieu of evidence of the required surety bond herein, such personal bond shall remain on deposit in the state treasury in the liquefied petroleum gas board personal bond fund for at least 365 days after the board has received a surety bond payable to the state of Alabama written by an insurance company qualified to do business in the state of Alabama. If after said 365 days have lapsed and there are no claims against the personal bond, the board administrator shall be authorized to issue a refund of said bond after proper application has been submitted. When the administrator has determined that there are claims against the personal bond, there shall be a third party hearing by an administrative law judge in the office of the attorney general to adjudicate the matter. When the appeal time has elapsed after an administrative hearing where such personal bond is determined to be in default, the administrator shall transfer monies from the personal bond fund to the liquefied petroleum gas board fund.

“(d) An applicant for any of the seven permits shall also file with the board evidence that he has in force such of the hereinafter listed insurance coverage written on standard contract forms by an insurance company or companies qualified to do business in the state of Alabama based upon those of the activities listed above in which he is engaged.

“For class A, B and B-1 Permits: E Permits for performing calibration, and inspections of L.P. Gas Meters on site:

Insurance	Each Occurrence	Each Person
Comprehensive Automobile Liability:		
Bodily injury liability	100,000	50,000
Property damage liability	100,000	
Comprehensive General Liability covering:		
(Bodily injury liability)		
(Manufacturers and Contractors liability)	100,000	

(Owners and Contractors)  
 protection liability)  
 (Completed operations and products  
 liability)

“For Class C, D and F Permits: and E permits only for performing  
 in-shop repairs to LP-Gas meters:

	Each Occurrence
Insurance	
Comprehensive General	
Liability Covering:	
(Bodily injury liability)	100,000
(Manufacturers and)	
Contractors liability)	
Owners and Contractors	
Protection liability	
(Completed operations and	
products liability)	

“(e) In lieu of filing with the board evidence that such insurance coverage, as outlined above, is in force, such person may file with the board a good and sufficient surety bond executed by an insurance company qualified to do business in this state in an amount of \$100,000.00, which bond shall be payable to the state of Alabama and shall be conditioned to guarantee the payment of all damages which proximately result from any act of negligence on the part of such person or his agents, servants or employees while engaging in any of the activities specified in this section. In lieu of such surety bond, any such person may execute and file a good and sufficient personal bond in the amount and conditioned as above specified, which said personal bond shall be secured by bonds or other obligations of the state of Alabama or the United States government of equal value. Evidence of required insurance issued by an insurance company shall be filed on a form provided by the board. When a surety bond, personal bond or other obligations of equal value is used in lieu of evidence of required insurance coverage herein, the surety bond, personal bond or other obligation of equal value shall remain on deposit in the state treasury in the liquefied petroleum gas board personal fund until at least 365 days has lapsed and there are no claims against said bonds or obligations of equal value, the administrator shall be authorized to issue a refund of said bonds or obligations of equal value from said bond fund after proper application has been submitted. When the administrator has notice of a claim filed against the monies or other obligations of equal value held in lieu of an insurance contract, the administrator shall deliver to the court, interplead and deposit with the court the amount of money

or obligations so held and the administrator and the liquefied petroleum gas board shall thereupon be discharged from liability as to any such claim and the action shall continue as between the claimants of such monies or properties. If the matter is adjudicated before said 365 days has lapsed, the court shall return any balance of any money or obligation to the liquefied petroleum gas board personal bond fund.

“(f) Any state, county, or any incorporated municipality or agency, or instrumentality thereof and any industrial user who makes application and possesses a Class C Permit shall not be required to file with the board a surety bond, provided that all of the servicing, repairing, adjusting and installing of LP-gas equipment, appliances and systems is only being accomplished on their own LP-gas equipment, appliances and systems.

“(g) There is hereby created in the state treasury a fund to be designated as the ‘liquefied petroleum gas board personal bond fund’ into which cash bonds or other obligations shall be deposited and from which such bonds shall be removed or refunded by the administrator at the appropriate time. The monies or other obligations in said bond fund shall not revert to the general fund at the end of each state fiscal year but shall be carried over into each subsequent state fiscal year and shall be disbursed as provided in this section.

“(h) Whenever a Class A, B or B-1 permit holder’s company name has changed, all vehicles and equipment assigned to said company shall be relettered with the new company name as follows: by the annual renewal of the company permit or within 180 days of said name change, whichever is greater, provided for good cause shown the board may extend said date by official action. Unmarked LP-gas delivery cargo vehicles or equipment placed in operation shall be lettered and placarded as required by the applicable section of the Code of Federal Regulations, Title 49, within 90 days of the date said vehicle was first placed into operation within this state. Vehicles and equipment not lettered with the company name within the described period shall be removed from service until such time as the proper company name is affixed to the vehicle or equipment by the owner.

“(i) Counties, municipalities or other local entities are hereby prohibited from requiring any further local testing or other requirements of LP-gas servicemen, certified by the LP-gas board, subject to the payment of any applicable local privilege, license or business fees or charges.

“§9-17-106.

“(a) Fees for Permit A and Permit B.—Every applicant for Permit A or a Permit B, at the time of issuance, shall pay to the board a fee of \$300.00 and annually thereafter pay to the board a

fee of \$200.00. Said permits and fees shall be due on October 1 and delinquent after October 31 of each year.

“Every person required to renew such permits and pay said fees who fails to do so by said delinquent date shall incur a penalty of \$10.00 for each day he is delinquent in complying with the provisions of this section, and such penalty shall be paid to the board before the issuance of the permit. Delinquency shall be determined by the United States Postal Service postmark when the date on such postmark falls on a later date than the said delinquent date.

“(b) Fees for Permit B-1.—Every applicant at time of issuance, shall pay to the board a fee of \$100.00 and annually thereafter pay to the board a fee of \$100.00. Said permits and fees shall be due on October 1 and delinquent after October 31 of each year.

“Every person who is required to renew such permits and who fails to pay said fees by said delinquent date, shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and makes payment of the regular fee of \$100.00 plus a penalty of \$50.00. Such fees and penalties shall be paid to the board before the permit shall be reissued. Delinquency shall be determined by the United States Postal Service postmark when the date on such postmark falls on a later date than the said delinquent date. After a permit has been cancelled for six months, the permit shall be applied for anew in the original manner previously set by the board.

“(c) Fees for Permit C.—Every applicant for a Permit C shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of \$50.00. Said permit and fees shall be due on January 1 and delinquent after January 31 of each year.

“Every person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of \$50.00 and penalty of \$25.00. After six months the person must reapply in the original manner previously set by the board.

“(d) Fees for Permit D.—Every applicant for a Permit D shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of \$250.00. Said permit and fees be due January 1 and delinquent after January 31 of each year.

“Every person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the

holder can show reasonable cause for delinquency and made payment of the regular fee of \$250.00 and a penalty of \$50.00. After six months the person must reapply in the original manner previously set by the board.

“(e) Fees for Permit E.—Every applicant for a Permit E shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of \$50.00. Said permit fees shall be due on January 1 and delinquent after January 31 of each year.

“Any person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make a payment of the regular fee and a penalty of \$25.00. After six months the person must reapply in the original manner previously set by the board.

“(f) Fees for Permit F.—Every applicant for a Permit F shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of \$100.00. Said permit fees shall be due January 1 and delinquent after January 31 of each year. Filling stations that are owned by Class A or Class B-1 Permit holders or operated by agents of Class A or Class B-1 Permit holders are exempt from obtaining a Class F Permit.

“Every person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of \$100.00 and a penalty of \$50.00. After six months the person must reapply in the original manner previously set by the board. The administrator may issue a temporary Class F Permit as soon as all requirements are met. The temporary permit shall only be in effect until the next regular board meeting unless the board extends the effective date by official action. Class F Permit holders shall keep records and must report monthly sales out-of-state motor fuel and remit required fees by the twentieth of the months following such sales. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in section 9-17-109.

“(g) In the event that an end user located within the state of Alabama purchases or obtains liquefied petroleum gas on which the permit fees required by this article have not been paid then said end user shall be required to report to the board the cost of such liquefied petroleum gas purchased during each period from October 1 to September 30 each year and shall pay to the board such fees that are due.

"All end users who purchase liquefied petroleum gas in unit quantities of 5,000 gallons or more are hereby required to furnish the board with such written information concerning such purchases as may be requested by the board.

"(h) Any supplier who sells liquefied petroleum gas to any marketer or any end user in the state or who delivers or causes to be delivered liquefied petroleum gas to any point in the state, is required to report to the board all such sales by the twentieth of the month following the month in which the sales are made. Such supplier shall add to each individual sales invoice an amount set by the board not to exceed two-fifths of one percent of the invoice cost of the total billing which shall include the cost of the product and freight to the point of delivery in the state to the marketer and shall remit to the board such money collected with the required monthly report.

"The board shall have the authority from year to year to lower or raise the percentage of invoice cost imposed by the provisions of this article.

"At no time may the board raise the percentage of invoice cost imposed by the provisions of this article above the rate of two-fifths of one percent.

"(i) Any permit holder who sells or otherwise exchanges liquefied petroleum gas in the state of Alabama not otherwise covered under the provisions of this article shall report to the board the cost of such sales or exchanges by the twentieth of the month following the month such sales or exchanges were made. Such permit holder shall submit to the board a percentage of the invoice cost as specified by the board not to exceed two-fifths of one percent of the cost of sale or value of exchange. The invoice cost shall include the cost of the product and freight to the point of delivery in the state to the marketer.

"If there has been no actual cash value placed on the liquefied petroleum gas by the owner of the product when it is either imported into or exported out of the state, the liquefied petroleum gas board shall have the right to determine the wholesale cash value of the liquefied petroleum gas for the purpose of assessing and collecting such fees imposed by the provisions of this article. In determining the cash value of the LP-gas, the board shall use the average FOB wholesale market value price of the liquefied petroleum gas being delivered on the date of delivery at the pipeline loading terminal located in the state nearest to the delivery destination of the gas.

"(j) Where a Class A or B-1 permit holder buys liquefied petroleum gas in the state of Alabama and pays the required fees on such liquefied petroleum gas and the Class A or B-1 permit holder sells such gas to end users outside the state of Alabama, the board

is authorized to issue a credit or refund of the amount of such fee upon proper application to the board; provided, that the liquefied petroleum gas delivered to the out-of-state end user shall be transferred from the said permit holder's storage facilities located within the state of Alabama. Such application shall be submitted to the board no later than 30 days following the end of each fiscal quarter. Failure to make a timely application shall result in forfeiture of the fee.

“(k) Class, A, B, B-1, C and D permit holders who are licensed by this board to install gas piping shall be exempt from the requirement of section 40-12-84 if they only install gas piping.

“§9-17-107.

“The board shall require that every applicant for a Permit A have located within the state of Alabama a minimum of 30,000 (water gallon capacity) gallons storage capacity for liquefied petroleum gases. Class B-1 permit holders shall be required to have a minimum of 18,000 (water gallon capacity) gallons storage capacity of liquefied petroleum gas.

“If the 30,000 gallon (water capacity) storage consists of more than one container, then no storage container in any installation used to meet this requirement of the law shall be a size less than 6,000 gallon (water capacity) and the storage capacity required by this section of the law shall be within close proximity to the area serviced and used by the applicant to service his customers in the state of Alabama.

“The board shall require that such person shall submit plans for the proposed bulk storage facility to the office of the board and obtain approval by the administrator of such plans before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used.

“If the holder of a Permit A or Permit B-1 submits plans to the board for a storage plant that shall remain his property even though the plant be at a customer's site or if the plant to be built is to be used as part of his own distribution system, then there will be no additional fees for approval and inspection of this facility; however, if this permit holder undertakes to install a bulk storage system of 5,000 gallons water capacity or more in single containers or in multi-container installation of an aggregate of 5,000 gallons water capacity, he must obtain approval for the location and for the plans from the administrator of the board before construction is begun. When plans for the bulk storage plant described above are submitted to the board for approval, a fee of \$200.00 must be paid at the same time. This fee of \$200.00 will cover examination of the

plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site, that is required, shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by the board.

“§9-17-108.

“(a) Due to the inherent nature of liquefied petroleum gas which could cause a danger to the public or to a liquefied petroleum gas user, the board or the board administrator shall have the administrative authority to issue a written directive order requiring any person who violates any of the provisions of this article as amended from time to time or any rule or regulation promulgated by the board to discontinue the operation of any LP-gas business or LP-gas system immediately and prohibit such person from commencing operations until said violations have been corrected. When a written directive is issued by the board or the board administrator, it shall be immediately complied with by the recipient. When a directive order has been issued against a person, the recipient may, within five days, appeal to the Circuit Court of the county in which the said violations occurred. The Circuit Court shall within 10 days review such written directive and file a decision thereon and unless, by the authority of said court, the directive is revoked or modified, it shall remain in full force and be complied with within the time fixed in the said directive or by decision of the Circuit Court. Any person who feels himself aggrieved by the decision of the Circuit Court may, within the time provided by law after the issuance of the decision of the Circuit Court, file an appeal with the Court of Civil Appeals to review such decision or judgment. Such parties as shall file an appeal shall file a bond in the amount fixed by the court or by law and unless said directive is revoked or modified by the Court of Civil Appeals the directive shall be complied with in the time fixed by said directive or by decision of the Court of Civil Appeals.

“(b) Any person engaging in the state of Alabama in any of the businesses defined in section 9-17-105, without first having secured permit as provided by section 9-17-105 or who shall have been convicted of a second or subsequent offense of violating any of the provisions of this article or any rule, order or regulation promulgated pursuant hereto may be enjoined from engaging in such business in the state of Alabama for a period of not less than one nor more than five years, and the board, through the district attorneys or attorney general, may institute such action in courts of competent jurisdiction of this state without necessity of posting bond.

“(c) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to impose monetary penalties and take such disciplinary actions as are authorized.



“§9-17-109.

“(a) Any person violating any provision of this article or any rule, order or regulation promulgated pursuant hereto shall, on conviction thereof, be fined not more than \$1,000.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months, and every violation of any provision of this article or any rule, order or regulation promulgated pursuant hereto shall constitute a separate offense.

“(b) It shall be the duty of every person subject to the fees imposed by section 9-17-106 to keep and preserve suitable records of all liquefied petroleum gas transactions subject to fees and such other books or accounts as may be necessary in order to determine the amount of fees for which such persons are liable under the provisions of this article. Such records shall be retained for a period of not less than three years, such records shall include the name, address of buyer, date of sale, amount of gallons purchased, cost per gallon, total amount of sale and amount of fees collected under the provisions of section 9-17-106. The board, the board administrator or employees of the board shall have the right to inspect, review and copy or detain any such original records, notes or documents either written or electronically transcribed that are required to be kept by this act. In addition to the aforementioned records, notes and documents, the board, board administrator or employees of the board shall have the right to inspect, review and copy or detain any such original records that relate to the selling, storing, transporting, installing, servicing, testing, inspecting, repairing, adjusting and calibrating of LP-gas meters, containers, tanks and systems. Said records, notes and documents shall be turned over to the board at a location designated by the board within twenty-four hours of said notice or within a reasonable time in excess of twenty-four hours set by the board or board administrator in cases of hardship.

“(1) If any person fails to report and remit fees required in section 9-17-106, the board shall issue written order by registered or certified mail to such persons to report and remit forthwith, and, if such person fails or refuses to make such report and remittance within 30 days from date of such notice, then the board shall make the report for such persons delinquent upon such information as it may reasonably obtain and shall assess the fees due thereon and shall add a penalty for failure to make such report and payment of 25 percent of the fees due, as assessed by the board and interest at the rate of one and one-half (1 1/2) percent per month, or fraction thereof, from the date such fees were due; provided, that the board, if a good and sufficient reason is shown or such delinquency, may waive or remit the 25 percent penalty or a portion thereof.

“(2) Any person who fails to pay the fees levied in section 9-17-106 within the time required by this article shall pay, in addition to the fees, a penalty of 10 percent of the amount of the fees due, together with interest thereon at the rate of one and one-half (1 1/2) percent per month or fraction thereof from the date at which the fees levied in this section became due and payable, such penalty and interest to be assessed and collected as part of the fee; provided the board for good cause shown may waive or remit said penalty or any portion thereof.

“(3) As soon as practicable after the report is filed, the board shall examine and ascertain the proper amount of the fee as shown by the report. The excess shall be refunded to the person who filed the report or credited on any deficiency previously due under the provisions of this article. If the amount paid is less than the amount due, as shown by the report, the board shall immediately notify the persons of such deficiency and shall add thereto a penalty of 10 percent of the amount due, and if such deficiency be not paid within 30 days from date of such notice, the same shall bear interest at the rate of one and one-half (1 1/2) percent per month or fraction thereof, from the date the same was due and shall be collected as part of the fee; provided, the board for good cause shown may waive or remit said penalty or any portion thereof.

“(4) Whenever the board in examining and auditing the records of any such persons who collect said fee or from other information shall ascertain that the amount or amounts previously paid by such person for any period or periods is incorrect, the board shall compute the correct amount of fees due, and, if it appears that the amount paid by such persons is in excess of the correct amount due, such excess shall be refunded to such persons or credited on any deficiency previously due by such persons as required by this article. If it appears that the amount paid by such persons is less than the amount due, the board shall compute the amount of such deficiency and shall notify such persons and shall demand payment thereof, and, if not paid within 15 days from date of such demand, the board shall add a penalty of one and one-half (1 1/2) percent per month from the date such fees, or any part thereof, becomes due, provided, that if the board is of the opinion that there was a willful or fraudulent intent by such persons to evade the fees due, it may assess a penalty of 25 percent of the fees, provided that upon appeal such action shall be reviewable.

“(c) Whenever the board shall make an assessment against such persons as provided in section 9-17-106 the board shall notify such persons by registered or certified mail of the amount of such assessment and shall notify such persons to appear at the board office on a day named not less than 20 days from date of such notice and

show cause why such assessment should not be final. Such appearance may be by agent or attorney. If no showing is made on or before the date fixed in such notice or if such showing is not sufficient in the judgment of the board, such assessment shall be made final in the amount originally fixed or in such amount as is determined by the board to be correct. If upon such hearing, the board finds the amount due to be different from that originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify such persons of the assessment as finally fixed; provided, that a notice by the United States mail, addressed to such persons' last known place of business, shall be sufficient.

"Whenever any such person who has duly appeared and protested an assessment by the board who is dissatisfied, he may make appeal of such assessment to the board at a time and place designated by the board, provided no appeal shall lie in cases where such person has failed to appear and protest.

"Any assessment made by the board shall prima facie be correct on appeal.

"(d) Any person who fills or refills any LP-gas container or who unauthorizedly turns any liquefied petroleum gas system on after it has been inspected, shut down and condemned for safety violations or operates an LP-gas motor vehicle, transport or delivery unit that has been condemned for safety purposes or mechanical defects and red-tagged under authority of the liquefied petroleum gas board or removes any such placed red tag without authorization from the liquefied petroleum gas board administrator, or any person who authorizes an unqualified person to install or replace gas piping or install, connect, repair or service any LP-gas equipment, shall upon conviction be guilty of a Class B misdemeanor as defined in Title 13A, and shall be punished as provided by law."

**Section 2.** The administrator of the Liquefied Petroleum Gas Board shall be authorized on an interim basis, with the approval of the Liquefied Petroleum Gas Board, to issue Class B and B-1 Permits between the effective date of this act and June 1, 1990.

**Section 3.** Class B-1 Permits shall become effective October 1, 1989.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:43 P.M.

Act No. 89-536

S. 267—Senators Manley, Foshee, Barron,  
Dial, Bedsole, Dixon, Hale,  
Corbett, Langford, Goodwin,  
Bennett, Smith, (J), Drinkard,  
Ellis and Horn

### AN ACT

To authorize the governing body of any municipality, or any municipality or municipalities to establish historic preservation commissions and architectural review boards in order to preserve and protect buildings, sites, structures, areas and districts of historic significance, architectural, archaeological and aesthetic heritage in the state, and to promote these attractions to tourists and visitors; to provide for the membership, the qualifications and terms, the powers, duties, and appointments to such commissions and boards; to prescribe that certain reporting shall be made to the Alabama Historical Commission and to the local governing bodies; to provide for the reimbursement of expenses of members, the rules of procedures for operations, and notice of meetings; to provide that each commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes; to prescribe that certain restrictions shall be placed on designated properties, and to provide exceptions thereto; to provide for appeals and other judicial processes; to preserve certain existing historic development commissions or architectural review boards; to authorize these to be certified with local government status or to assume the powers of this act pursuant to proper ordinance; to provide for exceptions to certain highways, roads, streets, utility structures or facilities or bridges, including the properties utilized in connection therewith, and to provide for exceptions to certain highways, roads, streets, utility structures or facilities or bridges; and to provide that the provisions of this act are cumulative.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The purposes of this act are to provide for the establishment of Historic Preservation Commissions and Architectural Review Boards, and to promote the educational, cultural, economic and general welfare of Alabama municipalities: through the preservation and protection of buildings, sites, structures, areas and districts of historic significance and interest; through the preservation and enhancement of the national, state and local historic, architectural, archaeological and aesthetic heritage found in Alabama; and through the promotion and enhancement of Alabama's historic and aesthetic attraction to tourists and visitors.

**Section 2.** The governing body of any municipality electing to enact an ordinance, pursuant to this act, to provide for the creation, protection and enhancement of historic properties or historic districts, shall establish an Historic Preservation Commission, hereinafter sometimes called the commission, and may establish one or more Architectural Review Boards, hereinafter sometimes called the boards, to carry out the purposes and responsibilities of that ordinance.

**Section 3.** (a) An Historic Preservation Commission created by an ordinance enacted pursuant to this act shall be composed of not less than seven (7) members, who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law, or who shall be residents of an historic district designated pursuant to that ordinance. Members of the commission shall be bona fide residents of the territorial jurisdiction of the municipality creating the commission. Not more than one-fifth (1/5) of the members of the commission shall be public officials.

(b) Members of the commission shall be nominated by the chief executive officer of the municipality creating the commission and appointed by the legislative body of that municipality. Nomination and appointment of members of the commission shall be made so as to ensure that the commission will be composed of persons with as much of the training and experience specified in Section 3(a) of this act as is possible.

(c) Except for the original members of the commission, members of the commission shall serve three (3) year terms and shall be appointed in such manner so as to serve overlapping terms. Two (2) of the original members of the commission shall be appointed to serve one (1) year terms, two (2) of the original members of the commission shall be appointed to serve two (2) year terms, and the remainder of the original members of the commission shall be appointed to serve three (3) year terms. Members of the commission may be reappointed.

(d) Members of the commission may be removed for cause by the legislative body of the municipality creating the commission.

(e) Vacancies on the commission shall be filled by persons nominated by the chief executive officer of the municipality creating the commission and appointed by the legislative body of that municipality. Such appointments shall be for the unexpired term of the member replaced.

(f) Members of the commission shall elect a chairman and a vice chairman and such other officers as the members deem necessary. The commission shall adopt rules of procedure and by-laws to govern its operations and shall communicate those rules of procedure and

by-laws to the municipality creating the commission. The rules of procedure and by-laws of the commission shall specify what number of members of the commission constitutes a quorum.

(g) Members of the commission shall serve without compensation but may be reimbursed for expenses incurred on behalf of the commission in accordance with the rules and regulations for the reimbursement of expenses adopted by the commission.

(h) The commission may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the ordinance enacted pursuant to this act.

(i) The commission shall prepare and file with the municipality creating the commission, and with the Alabama Historical Commission, an annual report of its activities as required by the municipality and the Alabama Historical Commission.

(j) Meetings of the commission shall be public meetings and shall be held at times and places and pursuant to such notices specified in the ordinance creating the commission.

**Section 4.** An Historic Preservation Commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes. Such commission shall have tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

**Section 5.** An Historic Preservation Commission created by an ordinance enacted pursuant to this act shall be authorized to:

(a) Preserve and protect buildings, structures and sites of historic and architectural value in the historic districts designated pursuant to that ordinance;

(b) Prepare a survey of all property within the territorial jurisdiction of the municipality creating the commission;

(c) Recommend to the municipality creating the commission buildings, structures, sites and districts for designation as historic properties or districts;

(d) Restore and preserve any historic properties acquired by the municipality creating the commission or acquired by the commission;

(e) Promote acquisition of facade and conservation easements by the municipality creating the commission or by the commission;

(f) Develop and conduct educational programs on historic projects and districts designated pursuant to the ordinance and on historic preservation subjects;

(g) Make such investigations and studies of matters relating to historic preservation as the municipality creating the commission or the commission deems necessary and appropriate for the purposes of this act;

(h) Apply for funds to carry out the purposes and responsibilities of the commission from municipal, county, state, federal and private agencies and sources;

(i) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in carrying out the purposes and responsibilities of the commission;

(j) Investigate, survey and process nominations of properties to the National Register of Historic Places;

(k) Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;

(l) Contract with other municipal, county, state, federal and private agencies and organizations to perform historic preservation related functions;

(m) Exercise such further powers as the commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the commission.

**Section 6.** (a) On recommendation of the Historic Preservation Commission, a municipality enacting an ordinance, pursuant to this act, may designate historic properties and historic districts within the territorial jurisdiction of the municipality.

(b) The commission shall not recommend designation of an historic property or historic district unless such recommendation is based on finding of a survey of such property or district conducted by or for the commission in accordance with the rules and regulations of the Alabama Historical Commission.

(c) The commission shall not recommend designation of an historic property or historic district unless it finds that the building, structure, site or district is identified with or represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation or has had significant relationship with the life of a historic person or event, representing a major aspect of the history of the locality, region, state or nation, or if a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation. In the case of an

individual building or structure, the commission may recommend designation as an historic property if the commission finds that the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the municipality creating the commission or which is unique to that municipality. In the case of a district, the commission may recommend designation as an historic district if the commission finds that the district contains vernacular structures which contribute to an overall character and sense of place which is representative of the municipality creating the commission.

**Section 7.** (a) Before the commission shall recommend the designation of an historic property or historic district, it shall hold a public hearing on the proposed recommendation of historic designation to be held at a time and place, pursuant to such notices specified in the ordinance creating the commission.

(b) In addition to the notice of the public hearing required pursuant to subsection (a) of this section, all owners of property to be included in the proposed historic designation, as such owners are identified in the relevant property tax rolls, if such owners can be found on reasonable inquiry, shall be notified by mail of the public hearing to be held by the commission on the proposed recommendation of historic designation.

**Section 8.** Upon the designation of any historic property or historic district by a municipality, pursuant to an ordinance enacted pursuant to this act, the Historic Preservation Commission shall give notice in writing of that designation to all agencies of the municipality, and to all owners of property included in the historic designation.

**Section 9.** (a) No change in the exterior appearance of an historic property or any building, structure or site within an historic district may be made, and no historic property may be demolished, and no building or structure in an historic district may be erected or demolished unless and until a certificate of appropriateness for such change, erection or demolition is approved by the Historic Preservation Commission created by the municipality designating the historic property or the historic district. Signs shall be considered as structures and no sign on an historic property or in an historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the commission. The requirement of a certificate of appropriateness shall apply to public property which has been designated as an historic property or which is contained in an historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts. Demolition by neglect and the failure to maintain an historic property or a structure in an historic district shall constitute a change for which a certificate of appropriateness



is necessary. A municipality enacting an ordinance, pursuant to this act, may include selection of paint colors in changes requiring a certificate of appropriateness. The painting of originally unpainted surfaces shall require a certificate of appropriateness.

(b) The commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness, and no certificate of appropriateness shall be approved unless an application for a certificate of appropriateness is submitted to the commission accompanied by such drawings, photographs and plans, as may be required by the commission.

(c) The commission shall adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness.

(d) Applications for certificates of appropriateness shall be considered by the commission at public meetings, held at times and places and pursuant to such notices as are specified in the ordinance creating the commission.

(e) The commission may adopt an expedited procedure for approval of routine maintenance to historic properties, or to buildings or structures in historic districts. Such expedited procedure may waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting.

(f) The commission shall keep a record of all applications for certificates of appropriateness and requests for approval of routine maintenance and all of its proceedings.

**Section 10.** Any person having a request for a certificate of appropriateness denied by the Historic Preservation Commission, or Architectural Board as hereinafter provided, may appeal such denial to the circuit court of the county in which the commission exists.

**Section 11.** (a) The Historic Preservation Commission shall approve an application and issue a certificate of appropriateness if it finds that the proposed change, erection or demolition conforms to the general design standards established by the commission, is compatible with the character of the historic property or historic district and does not detract from the value of the historic property or historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the historic and architectural features involved and the proposed change thereto, and the relationship thereof, to the exterior architectural style, and pertinent features of other structures in the immediate neighborhood.

(b) In its review of applications for certificate of appropriateness, the commission shall not consider interior changes or use having no effect on the exterior of a building or structure.

(c) In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor, in writing, to the applicant. The applicant may make modifications to its plans and resubmit the application for reconsideration at any time after doing so.

(d) In cases where the application is for a change in the exterior of the building or structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such case, no building permit shall be issued.

**Section 12.** The Historic Preservation Commission, or the municipality creating the commission, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any change in the exterior of a building or structure which is either an historic property or which is contained in an historic district, except in compliance with the provisions of an ordinance adopted in conformity with this act, or to prevent any illegal act or conduct with respect to such historic property, or historic district, and to recover any damages which may have been caused by the violation of that ordinance.

**Section 13.** (a) A municipality enacting an ordinance pursuant to this act, may elect to create an Architectural Review Board, hereinafter sometimes called the board, to perform the duties and responsibilities of the Historic Preservation Commission in accepting, considering and approving or rejecting applications for certificates of appropriateness, as set out in Sections 9, 10, 11, and 12 of this act.

(b) If such board is created, it shall be composed of not less than five (5) members who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law. Members of the board need not be residents of the territorial jurisdiction of the municipality creating the board. No member of a municipal governing body shall serve as members of the board.

(c) Members of the board shall be nominated by the chief executive officer of the municipality creating the board, and appointed by the legislative body of that municipality or county. Nomination and appointment of members of the commission shall be made so that the board will be composed of persons with as much of the training and experience specified in Section 13(b) as possible.

(d) Except for the original members of the board, members of the board shall serve three (3) year terms and shall be appointed in such manner as to serve overlapping terms. Two (2) of the original members of the board shall be appointed to serve one (1) year terms and the remainder of the original members of the board shall be appointed to serve three (3) year terms. Members of the board may be reappointed.

(e) Members of the board may be removed for cause by the legislative body of the municipality creating the board.

(f) Vacancies on the board shall be filled by persons nominated by the chief executive officer of the municipality creating the commission and appointed by the legislative body of that municipality. Such appointments shall be for the unexpired term of the member replaced.

(g) Members of the board shall elect a chairman and vice chairman and such other officers as the members deem necessary. The board shall adopt rules of procedure and shall communicate those rules of procedure to the municipality creating the board. The rules of procedure of the board shall specify what number of members of the board shall constitute a quorum.

(h) Members of the board shall serve without compensation, but may be reimbursed for reasonable expenses incurred on behalf of the board, in accordance with the rules and regulations for the reimbursement of expenses adopted by the board.

(i) The board may employ such professional, technical, office and other personnel, as may be necessary, to carry out the purposes and responsibilities of the board.

(j) Meetings of the board shall be public meetings and shall be held at times and places pursuant to such notices as are specified in the ordinance creating the board.

(k) If, in the opinion of the governing body of the municipality creating a board, the work load of the board is, or is contemplated to be excessive, the governing body of the municipality creating the board may create more than one board, and designate the historic properties, and historic districts with which each board will be concerned, so long as each historic property and each historic district designated by the municipality shall be subject to the control of only one board. Each such board created shall have all of the powers and authority set forth in this act with respect to the historic properties and historic districts with which it is concerned.

**Section 14.** No provision of this act shall be construed to require the dissolution of any historic development commission or

architectural review board created by an ordinance enacted pursuant to prior laws. Any historic development commission or architectural review board created by an ordinance existing pursuant to prior laws and existing at the time of the enactment of this act shall continue in existence and shall have all of the purposes, powers and authority set out in the ordinances creating such commissions and boards. Any such commission or board shall also have the power set forth in this act, if so provided by ordinance enacted by the governing body of the municipality creating the historic development commission or architectural review board. The fact that such a commission or board is not created by an ordinance enacted pursuant to this act shall not be cause for denying such commission or board certified local government status.

**Section 15.** The provisions of this act shall not apply to a highway, road, street, bridge, or utility structure or facility, nor to any highway, road, street, bridge or utility structure or facility to be constructed or improved, including any property, building or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith, lying or running within any municipality or county, or within an historic district or an area designated as historic properties under this act, nor to actions taken in connection therewith by public authorities or utilities charged with responsibility of constructing, maintaining, repairing or improving any such highway, road, street, bridge or utility structure or facility, including any property, building or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith; provided further, however, that where property lying within an area designated as historic properties or as an historic district, pursuant to the provisions of this act is sought to be utilized or acquired by any such public authority for the purpose of construction or improvement of a highway, road, bridge, utility structure or facility or street, and the provisions and requirements of Section 106, et seq., of the National Historic Preservation Act of 1966 (16 USCA 470), are applicable to the property acquisition or utilization, the public authority or utility may utilize or acquire any such property, building or other structure or parts thereof, and change, move or demolish any building or other structure in accordance with the applicable provisions, requirements and procedure provided for under such act, including the requirements and procedure as applicable of the Advisory Council on Historic Preservation, Section 36, Code of Federal Regulations 800 (16 USCA 470i), and in accordance with the provisions, requirements and procedure as applicable under Section 4(f) of the U.S. Department of Transportation Act of 1966, as amended, 49 USCA 1653(f), and under 23 USCA 138.

In the event the foregoing National Historic Preservation Act or Section 4(f) are not applicable to the property, building or other structure, they shall be exempt from the provisions of this act.

**Section 16.** The provisions of this act are cumulative and shall be construed with any and all other laws or parts of laws relating to historical preservation and architectural review, except those laws in direct conflict herewith are repealed.

**Section 17.** All provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 18.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:44 P.M.

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Act No. 89-537

S. 147—Senators Cabaniss, Ellis, Barron,  
Mitchem and Dial

### AN ACT

To provide the procedure under which a molder may dispose of molds, dies or patterns used for pouring plastic or casting metal absent a written agreement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act, the following words shall have the following meanings respectively ascribed to them, unless the context clearly indicates otherwise:

(a) "Customer" means any person who causes a molder to make a form or to use a form to make a product.

(b) "Form" means an object in or around which material is placed to make a mold for pouring plastic or casting metal, and includes a mold, die or pattern.

(c) "Molder" means any person who makes a form or who uses a form to make a product.

**Section 2.** Unless a customer and a molder otherwise agree in writing, a molder may, as provided in Section 3 of this act, dispose of a form owned by a customer if the customer does not take from the molder physical custody of the form within 3 years after the molder's last prior use of the form.

**Section 3.** A molder who wishes to dispose of a form shall send written notice by registered mail with return receipt requested to the customer's last-known address and to any address set forth

in the agreement under which the molder obtained physical custody of the form. The notice shall state that the molder intends to dispose of the form. The molder may dispose of the form without liability to the customer if, within 120 days after the molder receives the return receipt of the notice or within 120 days after the molder sends notice if no return receipt is received within that period, the customer does not take physical custody of the form or enter into an agreement with the molder for taking possession or physical custody of the form.

**Section 4.** This act applies to any form, whether it was last used before, on or after the effective date of this act.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:45 P.M.

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Act No. 89-538

S. 142—Senator Foshee

## AN ACT

Relating to the Teachers' Retirement System of Alabama; providing that certain persons employed by state junior colleges and state technical colleges may elect to purchase credited service for certain time such persons were on leave of absence; providing for the cost of such credited service; and providing for the expiration date of such option.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All employees of state junior colleges and state technical colleges who have been in such service for five years or more and who are participating in the Teachers' Retirement System of Alabama on the effective date of this act may elect to purchase credit for any time they were on leave of absence from such service between the dates of March 30, 1984, and July 1, 1986.

**Section 2.** Any employee electing to purchase credit pursuant to section 1 of this act shall pay to the secretary-treasurer within one year after the effective date of this act, a lump sum payment

equal to a percentage of the current annual salary of such person; the applicable percentage shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:46 P.M.

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Act No. 89-539

S. 114—Senators Dixon and Hale

### AN ACT

To provide, in the absence of written objection from the superintendent of the state banking department, for the transfer of fiduciary accounts from one bank, trust company or trust department to a related bank, trust company or trust department with provisions requiring notice to certain beneficiaries and to probate court, to provide a procedure for beneficiaries who object to the transfer, and provide for an alternative procedure which creates an agency relationship between related banks.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Absent written objection from the superintendent of the state banking department, a bank, trust company or trust department (hereinafter to be known as the “transferor”) may transfer one or more fiduciary accounts administered by such bank, trust company or trust department to another bank, trust company or trust department (hereinafter to be known as the “transferee”); provided, however, that the transferor and transferee banks are related institutions, as that term is hereinafter defined in Section 7 of this act, and that the transferee bank has trust powers.

**Section 2.** Approval of the superintendent shall be deemed granted in the absence of written objection from the superintendent within 10 days after receipt by the superintendent of written notice from the transferor bank of the proposed transfer.

**Section 3.** (a) Within 30 days after the date of the transfer of the fiduciary accounts, the transferor shall send written notice by

first class mail to the last known address (as then set forth on the records of the transferor, or if not set forth, as may be determined by the transferor in the exercise of reasonable diligence) of the following persons or entities:

- (1) For employee benefit plans, to the plan sponsors.
  - (2) For individual retirement accounts and retirement accounts for self-employed, to the account owners.
  - (3) For agency and escrow accounts, to the principals.
  - (4) For securities for which a transferor bank serves as trustee, registrar, transfer agent or paying agent, to the issuers.
  - (5) For revocable trusts under agreement, to the settlors.
  - (6) For irrevocable trusts under agreement, to any co-fiduciary, to the settlor, to each current income beneficiary who is an adult, and if a current income beneficiary is a minor, to a parent of the minor with whom the minor resides or to the conservator or guardian of the minor. For purposes of this subsection, "current income beneficiary" means a person currently entitled to income from a trust or a person to whom the trustee, in the trustee's discretion, may currently pay principal or income.
  - (7) For testamentary trusts, to the persons notified under subsection (6) of this section.
  - (8) For conservatorships, to any co-fiduciary, to the protected person for whom the conservatorship was created, of if the conservatorship was created for a minor, to a parent of the minor with whom the minor resides or to the guardian of the minor.
  - (9) For guardianships, to any co-fiduciary, to the minor or legally incapacitated person for whom the guardian was appointed if the ward is at least 14 years of age.
  - (10) For probate estates, to any co-fiduciary, to the surviving spouse, if any, and to those persons notified pursuant to subsection (7) of this section.
  - (11) For corporate trust indentures, to the issuer of the securities subject to each indenture; provided, however, that notwithstanding the foregoing, the transferor may, if it deems it appropriate, comply with any notice procedures contained in the trust indenture instrument with respect to succession of trustees.
  - (12) For fiduciary accounts not listed in above subsections (1) through (11), to such persons as the transferor sent its last report of the status of the account.
- (b) For purposes of this act, notice shall be deemed effective when mailed by the transferor. Should the transferor learn after the



expiration of 30 days from such transfer that through inadvertence, error, neglect or otherwise, notice was not mailed as herein provided, delayed notice may be given in the manner set forth herein. The recipient of such notice shall then have 30 days to object to the transfer as provided in Section 4 of this act.

**Section 4.** (a) Any person given notice pursuant to Section 3 of this act may file a written objection to the fiduciary transfer with the superintendent of the state banking department, stating grounds for objection, within 30 days of receipt of notice of the transfer by the person notified pursuant to Section 3 of this act. The transferor shall then have 30 days to either:

(1) Abandon the transfer of fiduciary accounts to which objection was given and hold such transfer for nought, or

(2) Apply to the state banking department for a hearing on the merits of the objection to transfer. After such hearing, the state banking department shall either approve or deny the transfer.

(b) Nothing herein shall preclude the transferor from appointing a related bank, trust company or trust department as its agent for the performance of any and all fiduciary obligations as provided in Section 8 of this act.

**Section 5.** (a) Within a reasonable time after the date of a transfer of the fiduciary accounts in accordance with the procedures set forth in Sections 3 and 4 of this act, the transferor shall file an affidavit in the office of the judge of probate of the county in which the main office of the transferor is located; and from time to time, the transferor may file a copy of such affidavit in the office of the judge of probate in such other counties as the transferor may deem appropriate. Such affidavit shall set forth the names and addresses of the transferor and transferee, such identification of the fiduciary accounts transferred as the transferor may deem appropriate, and such other information as the transferor may deem desirable.

(b) In the event that notice of objection to the transfer is received by the transferor after the filing of record of the original affidavit with respect to the transfer; and in the event that pursuant to Section 4 of this act, such transfer is abandoned, the transferor shall promptly file notice of such abandonment in the office of the appropriate judge of probate.

**Section 6.** If a bank, trust company or trust department completes a fiduciary transfer, the bank, trust company or trust department to which such fiduciary accounts have been transferred shall be automatically substituted as the fiduciary of all the accounts so transferred without further action and without any order or decree by any court or public officer; and without such transfer being treated

or considered as a resignation by the transferor as a fiduciary; and such transferee bank, trust company or trust department shall have all the rights, duties, responsibilities, obligations and liabilities, financial or otherwise, of such transferor bank with respect to such accounts. A bank, trust company or trust department which completes a fiduciary transfer shall be relieved as fiduciary without an accounting and without any order or decree of any court or public officer, and prospectively shall have no continuing duties, responsibilities, obligations or liabilities, financial or otherwise, with respect to the accounts transferred. Such transfer shall not, however, relieve the transferor bank of liability it may have incurred for action or inaction prior to the transfer, nor shall it impose liability on the transferee for action or inaction of the transferor prior to the transfer. No such transfer shall constitute a relinquishment of trust powers by the transferor bank.

**Section 7.** A transferor bank, trust company or trust department is "related" to a transferee bank, trust company or trust department if:

- (1) Such transferee controls the transferor;
- (2) Such transferor controls the transferee;
- (3) The same entity controls, directly or indirectly, the transferor and the transferee;
- (4) A majority of the directors of the transferor are directors of the transferee; or
- (5) A majority of the directors of the transferee are directors of the transferor.

"Control" and "controls" as used herein shall mean the ownership of a majority of the voting shares of another bank, trust company or of the bank operating such trust department.

**Section 8.** Regardless of objection to any fiduciary transfer as provided in Section 4 of this act and the outcome thereof, and notwithstanding any procedure under this act, any bank may appoint a related bank, trust company or trust department as its agent for the performance of all acts, obligations and responsibilities of the bank with respect to any fiduciary account. In such event, the appointing bank shall remain fully responsible and liable with respect to all actions of the related bank, trust company or trust department as if performed by the appointing bank itself. No such agency relationship shall:

- (1) Be deemed an impermissible delegation of responsibility or duty by the appointing bank;

(2) Constitute a resignation or disqualification of the appointing bank as fiduciary or relinquishment of trust powers by the appointing bank; or

(3) Require the consent of any person, entity, court or other governmental authority.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:47 P.M.

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Act No. 89-540

S. 642—Senators Figures and Windom

### AN ACT

Amending Act No. 80-164, H. 167, 1980 Regular Session, which supplements the salaries of the Circuit Judges of the Thirteenth Judicial Circuit in Mobile County, so as to increase said supplement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 80-164, H. 167, 1980 Regular Session, is hereby amended to read as follows:

“Section 1. In Mobile County in addition to the salaries paid to each of the Circuit Judges of the Thirteenth Judicial Circuit by the state, there shall also be paid to each of said Judges a supplement salary in the sum equal to 45% of the salary paid each of said Judges by the State of Alabama. Said supplement salary shall be paid out of the general fund of the county in equal installments at the same time and in the same manner that the salary of other county employees are paid.”

**Section 2.** This amendatory act shall not operate to increase the salary or supplement of any public officer or employee except the Circuit Judges of the Thirteenth Judicial Circuit.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 5, 1989 without approval of the Governor.

Act No. 89-541

H. 349—Rep. Ford

## AN ACT

To amend Section 5-19-31, Code of Alabama 1975, so as to confirm and clarify existing law that the provisions of Title 5, Chapter 19, other than the provisions of Section 5-19-1(1) and Section 5-19-3, do not apply to any loan, forbearance, credit sale, lease or other transaction that is not a consumer transaction, or to any transaction by a trust institution under any plan or agreement qualified under 26 USC 401(a) or defined by 5 USC 8437, 26 USC 403(b) or 26 USC 457 or a trust exempt under 26 USC 501; to provide further limitations upon the effect of Chapter 19 in amending or repealing other laws; to provide for the purpose of this Act; to provide for severability of the provisions of this Act; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5-19-31, Code of Alabama 1975, is hereby amended to read as follows:

“Section 5-19-31. Nonapplicability of chapter; certain laws not repealed or amended.

(a) None of the provisions of this chapter, except the provisions of subdivision (1) of section 5-19-1 and section 5-19-3, shall apply to any loan, forbearance, credit sale or lease or other transaction involving an interest in real property or the sale, lease or mortgage of an interest in real property, where the creditor is a lending institution which is an approved mortgagee under the provisions of the National Housing Act or is exempt from licensing under this chapter, or to any other loan, forbearance, credit sale, lease or other transaction that is not a consumer transaction or to any transaction by a trust institution as defined in Section 5-12A-1(1), Code of Alabama 1975, in its capacity as a fiduciary under any plan or agreement qualified under 26 USC 401(a) or defined by 5 USC 8437, 26 USC 403(b) or 26 USC 457 or a trust exempt under 26 USC 501.

(b) Nothing in this chapter shall be construed to amend or repeal, without limitation, the provisions of sections 5-18-1 through 5-18-24, section 8-8-6, section 8-8-4, section 8-8-5, section 8-8-1.1, 8-8-14, 8-8-15, or sections 5-20-1 through 5-20-10.

(c) This chapter shall not apply to any lawful, bona fide pawn-broking business.

(d) This Act is intended to confirm and clarify existing law that none of the provisions of this Chapter 19, other than the provisions

of subdivision (1) of Section 5-19-1 and Section 5-19-3, apply to any transaction that is not a consumer transaction, or, where provided in Section 5-19-31(a) to any transaction involving an interest in real property whether or not a consumer transaction or to any transaction of a trust institution described in Section 5-19-31(a)."

**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 4, 1989

Time: 4:48 P.M.

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Act. No. 89-542

H. 177—Rep. Richardson

### AN ACT

To provide for and create the Jackson County Racing Commission for the regulating, licensing and supervision of greyhound racing and wagering thereon; to prescribe the composition, appointment, powers and duties of the Racing Commission; to provide for and regulate the pari-mutuel or certificate method of wagering within the enclosure of licensed race tracks; to provide for the distribution of license fees, taxes, commissions and other monies received under the provisions of the act; to provide certain penalties for the violation of this act and for other purposes relative thereto; to provide for a referendum of the voters of the county and the voters within the corporate limits of any municipality in the county, on the question of whether the act will become effective.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Jackson County Racing Commission is hereby created and established and is vested with the powers and duties specified in this act, and all other powers necessary and proper to enable it to execute fully and effectually the purposes of this act. The official name of said Commission shall be the Jackson County Racing Commission, the same being sometimes referred to herein as the Racing Commission or the Commission. Said Commission shall be composed of bona fide residents of Jackson County, Alabama, who shall have resided in Jackson County, Alabama, for no less than five (5) years prior to appointment. Said Commission shall consist of three (3) members appointed as follows: the legislative delegation representing Jackson County shall jointly appoint two (2) members, one member for a term of four (4) years, and one member for a term of five (5) years; the Jackson County Commission shall appoint

a third member for a term of six (6) years. After the expiration of the term of the initial appointments, each appointment thereafter shall be for a term of six (6) years and shall be made in the same manner as the original appointments. Such members of the Jackson County Racing Commission are sometimes referred to herein as Racing Commissioners or Commissioners. Initial appointments of the Jackson County Racing Commission shall be made within fifteen (15) days after this act is approved by the voters of the county. Upon the occurrence of any vacancy in office, the new racing commissioner shall be appointed in the same manner as the original appointment. No person shall be appointed to the Racing Commission who has been convicted of a felony. Commissioners shall be eligible for reappointment.

Appointment powers by the legislative delegation exist only while said individuals serve as members of the legislature of the State of Alabama.

**Section 2.** Each Racing Commissioner shall take the same constitutional oath of office as any other county officer, and shall give bond payable to Jackson County in the amount of twenty-five thousand (\$25,000.00) conditioned that such Commissioner will faithfully and properly perform the duties of such office. The premium on such bond shall be paid by the Racing Commission. The Racing Commission may employ such assistants and employees as may be necessary who shall be paid out of the funds collected by the Racing Commission.

A member of the Racing Commission shall not be an officer, director or employee of any licensee or have any financial interest in any race track or race meeting licensed by the Racing Commission and shall not own or race greyhound dogs in any race meeting licensed by the Racing Commission.

**Section 3.** The compensation of each member of the Racing Commission shall be one thousand five hundred dollars (\$1,500.00) per month. One member of said Racing Commission shall be required to be in attendance at each racing event, although up to three (3) Racing Commissioners may be present. Each Racing Commissioner who attends a racing event while engaged in the performance of his duties shall receive an additional fifty dollars (\$50.00) for each event attended. Each Commissioner traveling outside the county on business of the Racing Commission shall receive an additional fifty dollars (\$50.00) per diem when traveling within the State of Alabama. When traveling outside the State of Alabama on official business, each member so traveling shall receive one hundred dollars (\$100.00) per day plus transportation expenses. The above sums shall be paid out of funds collected by the Jackson County Racing Commission.

**Section 4.** A treasurer shall be appointed by the Jackson County Racing Commission. The duties of the treasurer shall be to collect all the license fees, taxes and monies provided in this act, and shall supervise, check and audit the operation of the pari-mutuel wagering pools and the conduct and distribution thereof. Said treasurer shall give bond in the same amount and with same conditions as the bond required of Commissioners. Said treasurer may also be required by the Commission to post a fidelity bond in such amount as the Commission may deem appropriate.

**Section 5.** The Racing Commission shall have the authority to employ legal counsel of its selection to advise the Racing Commission and represent it in all proceedings. Compensation of such counsel shall be paid out of funds collected by the Commission.

**Section 6.** It shall be the duty of the Racing Commission to carry out the provisions of this act; and it shall have the following specific duties:

(1) To fix and set dates upon which race meetings may be held or operated.

(2) To make an annual report to the county governing body of its operation, showing its own actions and rulings, and receipts derived under the provisions of this act, and such suggestions as it may deem proper for the more effective accomplishment of the purposes of this act.

(3) To require each applicant to:

(a) If an individual, group of individuals or partnership, each individual or partner shall be a resident of the State of Alabama for at least five (5) years immediately preceding the date of the license issued.

(b) If a corporation, each incorporator, stockholder, director and officer shall be resident of the State of Alabama for at least five (5) years immediately preceding the date of the license issued.

(c) Set forth on such application for a license the following information:

(i) The full name of each individual or partner, their business and home address, their present business, occupation or profession, and each residence and business address and each business, occupation and profession engaged in by such individuals for a period of fifteen (15) years prior to the date of such application.

(ii) The name and address of each of the incorporators, stockholders, directors and officers of any corporation making such application and the present business, occupation or profession of each

such incorporators, stockholders, directors and officers and each residence and business address and each business, occupation and profession engaged in by such incorporators, stockholders, directors and officers for a period of fifteen (15) years prior to the date of such application.

(iii) The exact location where it is desired to conduct or hold a racing meet and a complete set of architectural renderings and detailed construction plans showing the site, topography, the type of construction, the track design and the concession plans, together with sufficient proof of capitalization to construct and operate said facility. If such proof of capitalization contemplates that a loan or other indebtedness will be incurred by such applicant, then the name and address of each person, firm or corporation making such loan or underwriting such indebtedness shall be given together with the written commitment of such person, firm or corporation to make such loan or underwrite such indebtedness.

(iv) Whether such racing plant is to be owned by applicant or leased, and if leased, the owner thereof shall meet the same residence requirements as an applicant and the same information shall be furnished for such owner as is required to be furnished for an applicant.

(v) If the applicant is to enter into a management contract with any person or legal entity, then such person or other legal entity shall meet the same residence requirement and the same information shall be furnished concerning such person or legal entity as is required of an applicant.

(vi) If the applicant is to enter into a contract for the operation of the food service, including restaurant, snacks, beverage, bar and concession stand sales, or any part thereof, then the person or other legal entity operating the same shall meet the same residence requirement and the same information shall be furnished as is required of an applicant.

(vii) The kind of racing to be conducted and the dates requested.

(viii) Such other information as the Racing Commission may require.

(4) Require an oath of every applicant or the president, executive officer, or managing officer or partner of each corporation or partnership stating that the information contained in the application is true.

(5) Promulgate uniform rules and regulations governing the holding, conducting and operating of all race meetings and races held in the county.



(6) Receive all applications for the initial license within thirty (30) days following the appointment of the Commissioners and to grant, reject, or otherwise act upon all such applications within fifteen (15) days after the last date for receiving such applications.

**Section 7.** The applicant granted a license to operate a race track in the county shall have the right, subject to the provisions of this act, to hold and conduct one or more racing meetings at such track each year provided that no such license shall be granted to any applicant or to any track for a period longer than three hundred (300) racing days in any one (1) year. More than one racing event per day is permitted. A racing event is defined as a session consisting of a series of consecutively numbered races. There shall be no racing event held on Sunday.

There shall be only one greyhound dog racing facility in Jackson County, Alabama, and only one license shall be issued to operate the facility.

**Section 8.** No person under eighteen (18) years of age shall be employed in any manner about said race track except as exercise people, grooms and parking lot attendants; nor shall persons under eighteen (18) years of age be permitted to attend any race.

The track licensee is encouraged to employ bona fide resident citizens of Alabama, preferably Jackson County residents, for at least 75 percent of its personnel needs.

**Section 9.** The original license issued in accordance with the terms of this act shall be for a period to allow ten (10) full calendar years of racing following the construction and equipping of the racing plant or facility or for the length of time required for the amortization of the capital investment, whichever is longer, and shall be granted so as to expire on the 31st day of December following such ten (10) full calendar years of racing or the amortization of the capital investment. On or before the 1st day of December of the last year of the original license, the Racing Commission shall accept applications in the manner, form and requiring the requisite qualifications all as prescribed in this act for additional periods of not more than three (3) calendar years. On or before the 1st day of January thereafter, the Commission shall convene to consider and act upon such applications. Subsequent applications shall be accepted and license issued in the same manner. If a licensee shall apply for a renewal license, the same shall not be denied except for good cause provided, however, the Commission may require that such licensee furnish the requisite information and meet the requisite qualifications required by this act.

The license granted under this act shall set forth in addition to any other information prescribed by the Racing Commission the

name of the licensee, the location of the race track, duration of the race meeting and the kind of racing desired to be conducted and shall show the receipt by the Commission of a license fee set by the Commission, provided, however, that such license fee shall not exceed One Thousand Dollars (\$1,000.00) annually. No such license shall be transferrable, nor shall it apply to any other place, track or enclosure except the one specified in the license.

**Section 10.** All books, records, maps, documents, and papers of the Racing Commission shall constitute public records, and be available for copying, examining and inspecting during all normal business hours by any agency, official, or person. The Racing Commission is empowered to compel the production of any and all books, memoranda or documents showing the receipts and disbursements of any person, association or corporation licensed to conduct race meetings under the provisions of this act. The Racing Commission may at any time require the removal of any employee or official employed by any licensee hereunder whenever such employee or official is guilty of any improper practice in connection with racing, has failed to comply with any condition of the license, or has violated any rule adopted by the Racing Commission. The Racing Commission shall have the power to require that the licensee maintain books and financial statements in a manner and form prescribed by the Racing Commission so as to assure the proper administration of the pari-mutuel pool and the payment of the tax hereinafter provided. The Racing Commission shall be authorized to visit, investigate and place auditors and inspectors in the offices, tracks or place of business of any person, association or corporation licensed under this act. The Racing Commission shall have power to summon witnesses before its meetings; to administer oaths to such witnesses, and to require testimony on any issue before it. Any person failing to appear before said Racing Commission, or failing to produce books, records and documents ordered, or refusing to testify thereon, shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment not to exceed six (6) months, or by both fine and imprisonment in the discretion of the court.

**Section 11.** After granting of a license to operate a greyhound race track, the Racing Commission shall have the power to grant, refuse, suspend or withdraw annual licenses for all persons connected with the greyhound dog race track, including gatekeepers, announcers, ushers, starters, officials, drivers, dog owners, agents, trainers, grooms, stable foremen, exercise people, veterinarians, valets, sellers of racing forms or bulletins and attendants in connection with the wagering machines, pursuant to such rules and regulations as the Racing Commission may adopt and upon the payment of a license fee as

shall be fixed and determined by the Racing Commission in accordance with the position and compensation of such person. Any such license may be revoked by the Racing Commission, for good cause, and person whose license is revoked shall be ineligible to participate in such occupation connected with racing unless the license is returned by the Racing Commission with permission to operate thereunder. The Racing Commission may deny or revoke any such license to any person who has been refused or denied a license by any other state racing commission or racing authority. Any person aggrieved shall be entitled to a hearing before the Racing Commission.

**Section 12.** The Racing Commission shall make rules governing, permitting and regulating the wagering on greyhound dog races under the form of mutuel wagering by patrons known as "Pari-Mutuel Wagering," which method shall be legal to the extent that and so long as the same is carried on and conducted strictly in conformity with this act, and not otherwise. Only the persons, associations or corporations receiving a license from the Racing Commission shall have the right or privilege to conduct this type of wagering and the licenses shall restrict and confine this form of wagering to a space within the race meeting grounds. All other forms of wagering on the result of the dog races shall continue to be illegal, and any or all wagering outside of the enclosure of such races, where such races shall have been licensed by the Racing Commission, shall be illegal.

No person or corporation shall directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity and no person shall purchase any part of a pari-mutuel pool through another wherein he gives or pays directly or indirectly to such other person anything of value. Any person violating this section shall be deemed guilty of a misdemeanor, and, upon conviction in a court of competent jurisdiction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not to exceed (6) months, or both fine and imprisonment, in the discretion of the court.

In addition to the other rules and regulations that may be promulgated by the Racing Commission, the following shall be complied with by the licensee or operator of the race plant and employees thereof:

(a) A duly licensed veterinarian shall be on the grounds at weighing time and make examinations of the physical condition of each greyhound, and any dog not considered to be in good physical condition shall be reported to the presiding official.

(b) An adequate security force shall be employed as prescribed by the Racing Commission. Members of the security force shall have the same powers as other law enforcement officers of the county while performing their duties on the premises of the race track.

(c) Public liability insurance shall be carried by the licensee or operator in an amount and with a company approved by the Racing Commission.

(d) A pari-mutuel ticket shall not be sold to an individual who is visibly inebriated.

**Section 13.** Every licensee conducting a race meeting under the provisions of this act shall pay:

(1) to the State of Alabama all privilege or other taxes heretofore or hereafter levied by the State of Alabama on pari-mutuel pools at greyhound dog racing tracks in Alabama, and

(2) to the treasurer of the Racing Commission on a quarterly basis, a tax equal to four percent (4%) of the total contributions to all pari-mutuel pools made at the track.

(a) The total maximum permissible take-out by a licensee from any pari-mutuel pools shall be an amount equal to nineteen percent (19%) of all pari-mutuel pools where a bettor is required to select two (2) or less racers, and an amount equal to twenty-one percent (21%) where a bettor is required to select three (3) or more racers; or such greater percentage as may be permitted hereafter by any general law of the State of Alabama.

(b) The total maximum permissible take-out shall be distributed as follows:

1. All privilege or other taxes payable to the State of Alabama.
2. Four percent (4%) of the total pool contributions payable to the Racing Commission.
3. The remaining balance of the total maximum take-out shall be retained by the licensee.

The remainder of the total contributions to each pool shall be divided among and redistributed to the contributors in such pool betting on the winning dogs. The amount of each redistribution for each winning bet placed shall be determined by dividing the total amount remaining in the pool after the deductions hereinabove provided for by the number of bets placed on the winning dogs. Each redistribution shall be made in a sum equal to the lowest multiple of ten cents per dollar wagered. The licensee shall be permitted to provide separate pools for win, place and show and also a daily double pool, a quiniela pool, a double quiniela pool, a perfecta or

exacta pool, a trifecta pool, a superfecta pool, a twin superfecta pool, a tri-superfecta pool and any other bets and pools as the Commission may from time to time allow. The licensee is entitled to retain the odd cents of all redistributions to be known as the "breaks to a dime," and all monies represented by any unclaimed, uncashed, or abandoned pari-mutuel tickets known as "outs" money. Should there be no ticket bet on the winning dog, the entire pool will be divided among the holders of the tickets of the dog running next in line until the pool has been redistributed to the contributors. The licensee shall be required to use a totalizator system to record the wagering and to compute the odds. Rules and regulations governing the operation of each of the pools shall be established by the Racing Commission. The licensee shall collect from each person paying to attend a race meeting under the provisions of this act ten cents as an admission tax. Licensee shall make payment of such taxes to the treasurer of the Racing Commission once each quarter (three months), which payment shall be accompanied by a report on the attendance covered by such report and such other information as the Racing Commission may require.

**Section 14.** The license fees, commissions, and excise taxes imposed herein, together with the privilege tax on pari-mutuel betting pools and greyhound dog racing tracks in the State of Alabama, imposed by Act 88-952, shall be in lieu of all licenses, excise taxes, occupational taxes to the State of Alabama or privilege taxes to the State of Alabama or any county, city, town or other political subdivision thereof, including but not limited to any and all sales and use taxes, lease taxes, utility taxes, except income taxes levied by the state, occupational taxes levied on wages by a municipality or a county, ad valorem taxes levied on any racing facility by the state, county, or other local subdivision at the same rates as are applicable to other commercial property having comparable market value, state and local sales tax on merchandise, food or beverages sold by operators or their concessionaires at racing events, and all taxes and license fees imposed or related to the sale of alcoholic beverages.

**Section 15.** All fees, commissions, taxes, and other monies, including fines, and forfeitures, received under the provisions of this act shall be paid to the treasurer of the Racing Commission. All such monies remaining after payment of expenses incurred in the administration of this act shall be distributed by the Jackson County Racing Commission on a quarterly basis as follows:

(1) Thirty-three percent (33%) to education in Jackson County to be distributed as follows:

a. Thirty-one percent (31%) to the Jackson County Board of Education and the Scottsboro Board of Education on the same basis

as funds received from the Minimum Program Fund. Of the thirty-one percent (31%), three percent (3%) shall be allocated for classroom supplies and twenty-eight percent (28%) to the general funds of the respective Boards of Education.

b. Two percent (2%) to the Northeast Alabama State Junior College: (i) one percent (1%) to the general fund; (ii) one percent (1%) to a scholarship fund.

(2) Fifteen percent (15%) to Jackson County Commission Public Works.

(3) Ten percent (10%) to the Jackson County Water and Sewer Authority for extension of water lines and development of water systems.

(4) Five percent (5%) to the Jackson County Commission for outlying sheriff's stations.

(5) Two percent (2%) to the Jackson County Commission for distribution to senior citizens' centers and RSVP program.

(6) Two percent (2%) to the Jackson County Commission for public libraries located in Jackson County.

(7) Three percent (3%) to the Jackson County Commission to be distributed to the volunteer fire departments in Jackson County.

(8) Two percent (2%) to the Jackson County Commission to be distributed to the rescue squads in Jackson County.

(9) Three percent (3%) to the Jackson County Hospital Board.

(10) Nine percent (9%) to be paid into the general fund of the municipality within which the licensed greyhound racing facility is located, and if such facility is not located within the corporate limits of any municipality, then such percentage, viz: nine percent (9%) shall become a part of the allocation of funds to education in Jackson County as provided for in subparagraph (1) of this Section 15.

(11) Sixteen percent (16%) to be divided between each municipality within Jackson County on population basis.

If any of the agencies receiving funds under this section cease to exist or should it be determined unlawful for any of the agencies to receive such funds, then the funds allocated thereto shall be redistributed in accordance with this Section 15 to those agencies in existence and legally capable of receiving such funds.

**Section 16.** Any corporation, association or person who directly, or indirectly holds any greyhound dog race without having procured a license as prescribed in the act shall be guilty of a misdemeanor. Any person wagering upon the results of races, except

in the para-mutuel method of wagering conducted by licensee and upon the grounds or enclosure of said licensee, shall be guilty of a misdemeanor. Any corporation, organization, association, or person who violates any provision of this act, for which a penalty is not expressly provided shall be guilty of a misdemeanor. Upon conviction of any of the above misdemeanors in a court of competent jurisdiction, the penalty shall be a fine of not less than One Hundred Dollars (\$100.00), not more than One Thousand Dollars (\$1,000.00), or by imprisonment of not less than five (5) days nor more than six (6) months, or both, such fine and imprisonment, in the discretion of the court.

**Section 17.** Any person who engages in the practice of professional gambling on greyhound dog races, or in the practice of making gambling or wagering books on such races, or who knowingly takes part in such practices, or has been convicted of a felony or any crime involving moral turpitude shall not be eligible as an applicant for any license or permit to operate a race track or a race meeting under the provisions of this act.

**Section 18.** Any person who shall influence or have any understanding or connivance with any owner, groom, or other person associated with or interested in any kennel, greyhound, or race in which any greyhound participates, to prearrange or predetermine the results of any such race, or any person who shall stimulate or depress a greyhound for the purpose of affecting the results of a race, shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in the state prison for not less than one (1) year nor more than ten (10) years, or shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Ten Thousand Dollars (\$10,000.00), or both such fine and imprisonment, in the discretion of the court.

**Section 19.** It shall be unlawful for any person to transmit or communicate to another by any means whatsoever the results, changing odds, track conditions, or any other information relating to any greyhound race from any race track in this county, between the period of time beginning one (1) hour prior to the first race of the day and ending thirty (30) minutes after the posting of the official results of each race, as to that particular race, except that this period may be reduced to permit the transmitting of the results of the last race each day not sooner than fifteen (15) minutes after the official posting of such results. Provided, however, that the Racing Commission may, by rule, permit the immediate transmission by radio, television, or press wire of any pertinent information concerning feature races.

It shall be unlawful for any person to transmit by any means whatsoever racing information to any other person, or to relay the same to any other person by word of mouth, by signal, or by use of

telephone, telegraph, radio, or any other means, when the information is knowingly used or intended to be used for illegal gambling purposes, or in furtherance of such gambling purposes.

Any person violating the provisions of this section shall be guilty of a felony and, upon conviction, shall be imprisoned in the state penitentiary for not less than one (1) year nor more than ten (10) years, or shall be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or both fine and imprisonment, in the discretion of the court.

**Section 20.** Upon request of recognized charities, the Racing Commission and licensee may extend said limitations of time for greyhound racing not to exceed two (2) days at any one time beyond the period otherwise provided by law so that any such track shall conduct a charity day or days of racing for any one or more recognized charities in Alabama which has a tax exempt status as provided for under the Internal Revenue Code. The total of all profits derived from the operation of such racing on such charity days, including all monies which would otherwise be received by the Racing Commission as taxes for such day's operations, shall be and become a part of the charity trust fund for which such racing on such days is conducted. The charity trust fund shall be administered as directed by the Racing Commission. The Racing Commission and licensee shall mutually agree as to which day or days of the week shall be designated as charity day or days.

In determining profits derived from such racing on such charity days, which profits shall include all taxes payable to the county or any agency thereof for such day's operations, said tracks shall only be entitled to deduct from the profits, accruing from all receipts on such charity days of racing, their actual operating costs, which costs shall be those expenses incurred by the race track solely by reasons of holding said charity days of racing and shall not be deemed to include such expenses constant from day to day and which would have been incurred had the race on that day not been held, including, but not limited to, such items as capital expenditures, interest on debts, real estate taxes and annual license fee, donations, bad debts, and such other items of daily or prorated expense as the Racing Commission may by rule prescribe.

**Section 21.** A referendum of the electors of Jackson County shall be held on the first Tuesday after thirty (30) days have elapsed after passage of this bill and approval of the Governor, or upon its otherwise becoming a law for the purpose of determining if this act shall become operative. The question to be voted on shall be stated on the ballots or voting machine tabs substantially as follows:

"Do you favor the creation of the Jackson County Racing Commission to regulate licensing and supervision of greyhound racing



and pari-mutuel wagering thereon as provided in Act No. \_\_\_\_, approved \_\_\_\_\_, 198\_\_?"

If the majority of the votes cast in the referendum are "Yes," greyhound racing shall be legal in Jackson County and this act shall become operative therein; if the majority of the votes cast in the election are "No," this act shall have no further effect. However, even if the majority of the votes cast in the entire county are "YES," no license shall be issued to operate a greyhound race track facility within the limits of any Jackson County municipality where, in such referendum, the majority of the votes cast within that municipality were "NO". The probate judge of Jackson County shall certify the results of the referendum to the Secretary of State in the time frame and in the manner as provided in other elections in the State of Alabama after the election results are canvassed.

**Section 22.** The provisions of the Alabama Ethics Law shall govern the conduct of the Jackson County Legislative Delegation and members of the Jackson County Racing Commission in the performance of their duties, as set forth in this act.

**Section 23.** All appointees under the provisions of this act shall take the same oath of office as is administered to other county officials.

**Section 24.** If any provision, paragraph or part of this act shall be declared invalid, unconstitutional, or void, the balance of said act shall remain in full force and effect.

**Section 25.** All laws or parts of laws in conflict with this act are repealed.

**Section 26.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 5, 1989, without approval by the Governor.

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Act No. 89-543

H. 914—Rep. Drake

### AN ACT

Relating to Morgan County; providing for a certain salary supplement for the circuit judges of said county and providing for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Effective October 1, 1988, the county salary supplement of the circuit judges of Morgan County, Alabama, shall be

an amount equal to forty percent of the prevailing salary paid to such judges by the state. Such supplement shall be paid in lieu of all other supplemental or expense payments heretofore authorized by law.

**Section 2.** The provisions of this act are not amendable except by local act and specifically shall not be amended by any act of general legislation without a specific reference to this act in such general legislation therein setting out in full the provisions or parts of this act to be amended. Any general legislation that does not comply with the provisions of this act shall in no way effect a revision nor amendment to this act in whole or in part.

**Section 3.** The provisions of this act shall have a retroactive effective to October 1, 1988.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 5, 1989 without approval by the Governor.

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Act No. 89-544

H.J.R. 489—Reps. Kvalheim and Gaston

## HOUSE JOINT RESOLUTION

COMMENDING BURT FOWLER TAYLOR OF MOBILE, ALABAMA, FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Burt Fowler Taylor of Mobile, Alabama, on his election as president of the Alabama Medical Association; and

WHEREAS, a native of Nashville, Tennessee, and an orthopaedic surgeon in private practice in Mobile since 1972, Dr. Taylor is a graduate of Vanderbilt University and the University of Tennessee College of Medicine; he completed his internship at Jackson Memorial Hospital in Miami, Florida, served as a United States Air Force Flight Surgeon from July 1963 to June 1967, and completed a 4 1/2

year residency in orthopaedic surgery at Northwestern University, Chicago; and

WHEREAS, Dr. Taylor, who is licensed in the States of Tennessee, Illinois, Florida and Alabama, is a member of the Board Certified by the American Academy of Orthopaedic Surgery; and is a member also of the American College of Surgeons, Clinical Orthopaedic Society and the Mobile County, Alabama State and American Medical Associations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Burt Fowler Taylor, M.D., of Mobile, Alabama, for outstanding professional achievement and service; we further congratulate him on his election as president of the Alabama Medical Association, and direct that he receive a copy of this resolution of highest honor and esteem.

Approved May 4, 1989

Time: 4:49 P.M.

Act No. 89-545

H.J.R. 436—Reps. Zoghby and Clark (J)

### HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE 10th ANNIVERSARY OF THE NATIONAL ODOM ASSEMBLY.

WHEREAS, the National Odom Assembly convenes in Mobile, Alabama, July 21-23, 1989, on the Tenth Anniversary of the first annual gathering of Odom families, numbering some 250 heads of households, their spouses and children who represent forty of the states, including Alaska; and

WHEREAS, this forthcoming event will mark the first time since 1981, following reunions one and two in Eufaula, that the Odoms have met in Alabama, and is thereby coincidental with the first Alabama Reunion homecoming to unite former residents, old and new, as well as thousands of other visitors to our beautiful state; and

WHEREAS, many of the Odoms, including "Odums," "Odems," "Oldhams" and various other spellings of the family name, settled in Washington County, Alabama (then the Mississippi Territory), in 1903, coming from South Carolina and North Carolina and by way of the Federal Highway, with many others continuing West; and

WHEREAS, perhaps one of the largest such organizations in the country, the National Odom Assembly, in annual reunion, provides a forum for genealogy research and promotes fun and fellowship for a growing family who establish bonds for the future as they search for and learn of their heritage; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize with commendation the Tenth Anniversary of the National Odom Assembly; we further welcome the return of the Odoms to the State of Alabama, and most cordially invite them to make Alabama the permanent site of the Odom's annual reunion.

Approved May 4, 1989

Time: 4:50 P.M.

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Act No. 89-546

H.J.R. 462—Rep. Bugg

### HOUSE JOINT RESOLUTION

COMMENDING COMMISSIONER OF LABOR ROBIN REA AND ASSISTANT COMMISSIONER OF LABOR MIKE MORGAN OF MONTGOMERY, ALABAMA.

WHEREAS, the Legislature of Alabama wishes to recognize the extraordinary efforts of Robin Rea, Commissioner of Labor and Mike Morgan, Assistant Commissioner of Labor of Montgomery, Alabama, during the recent labor dispute in Gadsden, Alabama; and

WHEREAS, the intense dispute occurred on April 1, 1989, between Gulf States Steel and the United Steelworkers of America with feelings on both sides to the breaking point; and

WHEREAS, through the expertise and professionalism of Commissioner Rea and Assistant Commissioner Morgan, communication resumed between the Union and Gulf States Steel and the tension began to subside; and

WHEREAS, a settlement was reached between the parties, the contract was ratified by the Union membership and labor peace will reign for the next four years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend and offer our sincerest appreciation to Commissioner of Labor Robin Rea and Assistant Commissioner of Labor Mike Morgan for their recent efforts related to the labor dispute in Gadsden.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Commissioner Rea and Assistant Commissioner Morgan as a mere token of our high esteem and warmest personal regard.

Approved May 4, 1989

Time: 4:51 P.M.

Act No. 89-547

H.J.R. 439—Rep. Mikell

### HOUSE JOINT RESOLUTION

COMMENDING AUTHOR GENE WESTBROOK AND DESIGNATING "THE MAGNOLIA COLLECTION" AS AN OFFICIAL 1989 ALABAMA REUNION COOKBOOK.

WHEREAS, Alabama author Gene Westbrook of Robinson Springs has compiled and published "The Magnolia Collection," an original and well-received cookbook, with sales to date in excess of 30,000 copies; and;

WHEREAS, truly a feast of fine recipes, "The Magnolia Collection" has been enthusiastically applauded for the variety of its fare, and for the witty, personal comments of the author; and

WHEREAS, we further note that "The Magnolia Collection" is a family affair in that the cover was designed by Mrs. Westbrook's daughter, Genia Westbrook Wolfe; the culinary artwork throughout the book was designed by her husband, Joe Westbrook, who also photographed the Southern flowers used as models for their daughter's illustrations; sons, Almand and Jay Westbrook, served as chief tasters and food critics; while Mrs. Westbrook's parents, Mr. and Mrs. Tommy Sparks, taught her the art of planning a "fun and food-filled" party; and

WHEREAS, "The Magnolia Collection" is indeed a superb compilation of recipes in the finest tradition of Southern hospitality; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Gene Westbrook of Robinson Springs, Alabama, on the success of her outstanding cookbook; we further designate "The Magnolia Collection" as an official 1989 Alabama Reunion cookbook, and direct that a copy of this resolution be presented to the accomplished author.

Approved May 4, 1989

Time: 4:51 P.M.

Act No. 89-548

H.J.R. 328—Rep. Blake

## HOUSE JOINT RESOLUTION

COMMENDING ANNIE MAE SULLIVAN NOLIN OF COOK SPRINGS, ALABAMA.

WHEREAS, Annie Mae Sullivan Nolin, a resident of Cook Springs, Alabama, is the widow of the late Virgil Nolin; and

WHEREAS, Annie Mae Nolin and her husband reared two foster children as their own; and she has made numerous and notable contributions to her church, Cook Springs Baptist Church, the senior citizens' Sunday School at the Baptist Home for Senior Citizens; and she is a charter member of the Home's Auxiliary, having served as its president since 1977; and

WHEREAS, her care and concern are felt by the many with whom she comes in contact and her devotion to the senior citizens of her community has endeared her to all in her community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most gratefully recognize Annie Mae Sullivan Nolin for the immeasurable contributions to her community, the Cook Springs Baptist Church and to the senior citizens of her area, and on her exemplary family life.

RESOLVED FURTHER, That a copy of this resolution be sent to Annie Mae Sullivan Nolin so that she may know of our esteem and deep appreciation.

Approved May 4, 1989

Time: 4:52 P.M.

Act No. 89-549

H.J.R. 327—Reps. Holley and Zoghby

## HOUSE JOINT RESOLUTION

CONGRATULATING JUNE SMITH, ENTERPRISE, ALABAMA, RECIPIENT OF THE PAPAL MEDAL OF HONOR.

WHEREAS, June Smith, a resident of Enterprise, Alabama, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness of John Paul II, which was established in 1888

as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, June Smith, a member of Saint John's Church, has been active in her parish; she serves on the boards of the Dothan deanery and the Archdiocesan Council of Catholic Women, as well as other civic and charitable organizations and her life has been faith filled in service to others for the betterment of her church and community; and

WHEREAS, June Smith has so unselfishly given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration for others to reach out to the needs of others and her life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady June Smith, Enterprise, Alabama, for her outstanding achievements and particularly for her dedication to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. June Smith, Enterprise, Alabama, so that she may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 4:53 P.M.

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Act No. 89-550

H.J.R. 315—Reps. Escott and Kennedy

### HOUSE JOINT RESOLUTION

COMMENDING BRENDA DeRAMUS-COLEMAN ON HER NOMINATION AS CANDIDATE FOR NEA UNISERVE DIRECTOR, AND FOR DEDICATION AND SERVICE IN THE FIELD OF EDUCATION.

WHEREAS, the Legislature of Alabama notes with highest honor and esteem the nomination of Brenda DeRamus-Coleman as a candidate for NEA UniServe Director; and

WHEREAS, Ms. Brenda DeRamus-Coleman, who is a Spanish Teacher in the Lanier Academic Motivational Program at Sidney Lanier High School in Montgomery, was nominated for the directorship by petition of 50 members; and

WHEREAS, a graduate of Alabama State University, Ms. DeRamus-Coleman also earned the M.Ed. degree from Auburn University at Montgomery and, as a dedicated educator, has served her profession in numerous capacities of leadership; and

WHEREAS, she currently serves as president of Montgomery ACT and treasurer of the Southeast Region ACT, as a member of the AEA Resolutions Commission and as co-chair of the ACT Resolutions Committee; and

WHEREAS, Mrs. DeRamus-Coleman has further served as budget officer, secretary and vice president of Montgomery ACT; has chaired several committees of MACT, MCEA and AEA; has attended the NEA, AEA and SERACT Representative Assemblies; and has served for the past 10 years as a local association representative; and

WHEREAS, she also is and/or has been associated with numerous other professional organizations; has served additionally on various local, state and national committees, council and review teams; and has often been recognized with such distinctions as the 1988 SERACT Service Award, Outstanding Educator Award, and the Emory D. Jackson Award, among others, and has been featured and/or listed in NEA Today and Outstanding Young Women in America; and

WHEREAS, Ms. DeRamus-Coleman, who has indeed served her profession with outstanding dedication and distinction, is to be sincerely praised for her contributions and accomplishments in the field of education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Brenda DeRamus-Coleman on her nomination as a candidate for NEA UniServe Director, and do further direct that she receive a copy of this resolution, executed in recognition of her outstanding service and achievement as a distinguished educator.

Approved May 4, 1989

Time: 4:54 P.M.

Act No. 89-551

H.J.R. 314—Reps. Escott and Kennedy

### HOUSE JOINT RESOLUTION

COMMENDING EUNICE HORTON ON HER NOMINATION AS A CANDIDATE FOR NEA UNISERVE DIRECTOR, AND FOR DEDICATION AND SERVICE IN THE FIELD OF EDUCATION.



WHEREAS, the Legislature of Alabama notes with highest honor and esteem the nomination of Eunice Horton as a candidate for NEA UniServe Director; and

WHEREAS, Mrs. Horton, a classroom teacher for 25 years, has further served her profession and the education community as president of the Jefferson County Education Association on two occasions and has served on the vast majority of her local chapter's committees; and

WHEREAS, on the state level, Eunice Horton served as chairperson of the IPD Commission and on the Budget, Resolutions and PR Commissions; she currently is a member of the AEA Board of Directors and of various committees established by the state and local boards of education; and

WHEREAS, Mrs. Horton, in national involvement, served on the NEA Resolutions Committee for six years and on the UniServe Advisory Committee; and

WHEREAS, Mrs. Horton, who has indeed served her profession with outstanding dedication and distinction, is to be sincerely praised for her contributions and accomplishments in the field of education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Eunice Horton on her nomination as a candidate for NEA UniServe Director, and do further provide that she receive a copy of this resolution, executed in recognition of outstanding service and achievement as a distinguished educator.

Approved May 4, 1989

Time: 4:55 P.M.

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Act No. 89-552

H.J.R. 313—Rep. Escott

### HOUSE JOINT RESOLUTION

COMMENDING JUANITA J. VANN ON HER NOMINATION AS A CANDIDATE FOR NEA UNISERVE DIRECTOR, AND FOR DEDICATION AND SERVICE IN THE FIELD OF EDUCATION.

WHEREAS, the Legislature of Alabama notes with highest honor and esteem the nomination of Juanita J. Vann as a candidate for NEA UniServe Director; and

WHEREAS, Ms. Vann, who is a mathematics teacher at Parker High School in the Birmingham City School System, and who was

nominated for the directorship by petition, has served her local chapter as president, treasurer, recording and corresponding secretary, and on several NEA and AEA commissions and committees; and

WHEREAS, currently serving as co-chairperson of the AEA Legislative Commission, she also is BEA-IPD Committee Chairperson and alternate for the NEA Resolutions Commission; and

WHEREAS, Ms. Vann further served on the ASDE State Advisory Committee on Teacher Education and Certification for two terms; on the state Department of Education Review Team for postsecondary education; has completed formal CADRE Training for New Leaders, which is sponsored by NEA and AEA; and is a member of Phi Delta Kappa, Kappa Delta Pi, NCTM, ACTM, NCSM, ASCD, AAUW, NEAT Caucus and AKA; and

WHEREAS, Ms. Juanita Vann, who has indeed served her profession with outstanding education and distinction, is to be sincerely praised for her contributions and accomplishments in the field of education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Juanita J. Vann on her nomination as a candidate for NEA UniServe Director, and do further direct that she receive a copy of this resolution, executed in recognition of her outstanding service and achievement as a distinguished educator.

Approved May 4, 1989

Time: 4:56 P.M.

Act No. 89-553

H.J.R. 311—Reps. Turner, Zoghby, Gaston,  
Kvalheim, Clark (W),  
Kennedy and Buskey (JE)

### HOUSE JOINT RESOLUTION

DECLARING "CAMP SMILE WEEK", JUNE 26-30, 1989.

WHEREAS, Camp SMILE is located in Citronelle, Alabama and is a camp for retarded children and adults, serving young educable mentally retarded, the trainable and severe and profound mentally retarded campers with multiple handicaps; and

WHEREAS, Camp SMILE was founded in 1972 by the Reverend Glenn L. Vernon, who is the Executive Director of Camp SMILE; and

WHEREAS, Mr. Roy O. Bearden has served as Director of Camp SMILE since its beginning; and

WHEREAS, Camp SMILE, sponsored by the Mobile Baptist Association and the Mobile Association for Retarded Citizens, uses the facilities of the Mobile Baptist Citronelle Assembly; and

WHEREAS, Camp SMILE, which is open to children and adults of all denominations, has had 3,478 campers to date and anticipates an additional 315 campers this summer; and

WHEREAS, in addition to camp workers, all of whom are volunteers, \$50,000 will be spent over a four week period; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby declare the week of June 26 through June 30, 1989, as Camp SMILE Week.

BE IT FURTHER RESOLVED, That in token of our gratitude and esteem, copies of this resolution shall be presented to the Reverend Glenn L. Vernon and Mr. Roy O. Bearden, with a copy also provided for appropriate display at Camp SMILE.

Approved May 4, 1989

Time: 4:57 P.M.

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Act No. 89-554

H.J.R. 307—Rep. Rains

#### HOUSE JOINT RESOLUTION

COMMENDING THE GERALDINE HOMEMAKER CLUB FOR OUTSTANDING SERVICE TO THE COMMUNITY.

WHEREAS, almost 60 years ago, the Geraldine Homemaker Club was organized and has since continuously been dedicated to community service and committed to the betterment of society; and

WHEREAS, three charter members, Bertha Mauldin, Della Hicks and Ollie Mae Bailey, have 50-year membership pins; and

WHEREAS, the Geraldine Homemaker Club indeed merits highest commendation for service to their community; they provide transportation to doctors, dentists, grocery stores and pharmacies for the elderly and handicapped in the community; and

WHEREAS, gifts, entertainment and recreation for residents of area nursing homes are provided by the Club on occasions; and

WHEREAS, the Geraldine Homemaker Club performs volunteer work at the Geraldine Public Library and in 1988, they completed a five-year fund raising for the construction of a Geraldine Public Library Community Center, providing a kitchen and dining facility to accommodate 100 persons, mortgage and debt free; and

WHEREAS, endeavoring to beautify its community and state, the Club has adopted a mile of highway to keep clean; and

WHEREAS, the Geraldine Homemaker Club is instrumental in the production of the DeKalb County Annual Fair as well as competing in the Fair; the members of the Club win an average of 75 ribbons each year, collectively; and

WHEREAS, the members of the Geraldine Homemaker Club assist the Auburn Extension Service with various events, including sew-a-ramas, quilt-a-ramas and dress reviews; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished service to the community and to the state, we hereby most highly commend the Geraldine Homemaker Club, and direct that a copy of this resolution be presented to the Club for appropriate display.

Approved May 4, 1989

Time: 4:58 P.M.

Act No. 89-555

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H.J.R. 306—Reps. Newman, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper,

Johnson (RG), Johnson (RW),  
 Kennedy, Knight, Kvalheim,  
 Laird, Layson, Lindsey, Logan,  
 Marietta, Marks, Mathis,  
 McClain, McDowell, McKee,  
 McMillan, Melton, Mikell,  
 Moon, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos, Poole,  
 Rains, Richardson, Rogers,  
 Sanderford, Seibels, Slaughter,  
 Spratt, Starkey, Thomas,  
 Turner, Turnham, Venable,  
 Walker, Warren, White (F),  
 White (G), White (L), Williams,  
 Willis, Wright and Zoghby

#### HOUSE JOINT RESOLUTION

COMMENDING BOBBY M. JUNKINS OF GADSDEN, ALABAMA, FOR OUTSTANDING SERVICE AND ACCOMPLISHMENT.

WHEREAS, Bobby M. Junkins of Gadsden is currently serving as Probate Judge of Etowah County, Alabama, having previously served for eighteen years as Director of the Gadsden Public Library; and

WHEREAS, Judge Junkins further is a former colleague who represented District 10 in the Alabama House of Representatives from 1982-1988 and was the first public library director in Alabama ever to serve in the Legislature; and

WHEREAS, our friend, Bobby Junkins, who also was the tallest member of the Legislature during his tenure, was a "giant among men," as well, in contributions and accomplishments on behalf of his district and the State of Alabama, and was recognized therefor through election by his peers as an Outstanding Legislator in 1984 and 1985; and

WHEREAS, other of Judge Junkins' honors include the Distinguished Service Award, Outstanding Young Man of Etowah County, Gadsden's Key Man Award, Governor's Award for the Arts (1988) and nomination for 1984 Alumnus of the Year (Gadsden State Junior College); and

WHEREAS, Judge Junkins, who holds both the bachelor's and master's degrees, has assumed additional leadership through membership and/or office in such organizations as the Gadsden Kiwanis

Club, Gadsden Metro Chamber of Commerce, State Democratic Executive Committee, Gadsden Civic Theater, Baptist Foundation Board, Gadsden Arts Council, Masons, Shriners, First Methodist Church Board of Stewards, Boy Scouts of Chocologco District Executive Board, Jacksonville-Etowah County Alumni Association, Big Men (Business in Gadsden Means Entertainment) and the Etowah County University of Alabama Alumni Board; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES CONCURRING, That in recognition of outstanding achievement and service to the City of Gadsden, Etowah County and the State of Alabama, we hereby commend, Bobby M. Junkins of Gadsden, for whom a copy of this resolution shall be provided.

Approved May 4, 1989

Time: 4:59 P.M.

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Act No. 89-556

H.J.R. 304—Reps. Hogan, Crow, Willis and Frazier

### HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA ASSOCIATION OF RESCUE SQUADS AND THE ASSOCIATION'S MEMBER UNITS.

WHEREAS, the Legislature of Alabama, in grateful commendation, notes the outstanding service rendered by the Alabama Association of Rescue Squads, and the association's member units, since its establishment in 1963; and

WHEREAS, AARS, Inc., has a membership of 125 rescue squads located throughout the rural areas of our state, with a total of 4000 individuals providing service for some 2 1/2 million residents of Alabama; and

WHEREAS, the association and its member units are operated on an all-volunteer basis; they give freely of their time, as well as financial support, to serve the areas in Alabama that would otherwise be without rescue service in times of grave danger and other emergencies; and

WHEREAS, Alabama's volunteer rescue squads, which provide 38% of the primary ambulance service in Alabama, also provide auto-extrication; conduct recoveries of drowned victims; provide lost or missing persons searches; assist law enforcement agencies upon request; and are involved in other emergency situations including

weather watches, floods and clean-ups of chemical spills, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Alabama Association of Rescue Squads, Inc., and its member units, for outstanding volunteerism and service to the citizens of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution of honor be presented to the Alabama Association of Rescue Squads on the occasion of the association's 26th Annual Convention, November 12-18, 1989.

Approved May 4, 1989

Time: 5:00 P.M.

Act No. 89-557

H.J.R. 302—Reps. Kennedy, Buskey (JE),  
Clark (W) and Zoghby

#### HOUSE JOINT RESOLUTION

COMMENDING THE WILLIAMSON HIGH SCHOOL GIRLS BASKETBALL TEAM AS OUR 1989 STATE 5A GIRLS CHAMPIONS.

WHEREAS, it is with highest commendation that the Legislature of Alabama congratulates the Williamson High School Girls' Basketball Team as tops in the State in Class 5A Girls competitions; and

WHEREAS, under the talented leadership and direction of Head Coach Curtis Horton and Assistant Coach Tonya Sullivan, the Lady Lions finished the season with a phenomenal 25-0 overall record, defeating Pell City High School and Coffee County High School in the finals; and

WHEREAS, the girls bringing great honor to their school and the community are starting seniors, Lauretta Freeman, Captain, Yolanda Young, Co-captain, Kenita Williams, and Erica Gullett; along with teammates Belinda Blake, Raemona Williams, Petrina Lacey, Sonya Alston, Chiquitta Clemons, Lakisha Sigler and Anita Harris; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach

Curtis Horton and the Williamson High School Girls' Basketball Team as the 1989 State 5A Girls Champions and do further direct that copies of this resolution be provided for appropriate presentation and display at Williamson High School.

Approved May 4, 1989

Time: 5:01 P.M.

Act No. 89-558

H.J.R. 301—Reps. Gaston, Zoghby,  
Kvalheim, McMillan  
and Turner

### HOUSE JOINT RESOLUTION

COMMENDING MR. THOMAS S. DAMSON OF MOBILE, ALABAMA.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the selection of Mr. Thomas S. Damson as recipient of the Small Business Administration Special Achievement Award of 1988 by the Mobile Area Chamber of Commerce; and

WHEREAS, a native of Mobile, Mr. Damson is a graduate of University Military School and the University of Alabama where, in 1969, he received his Bachelor of Science Degree in Commerce and Business Administration; he was a member of the United States Army and served as Army Aviator in a Combat-Assault Helicopter Company in Viet Nam; and

WHEREAS, under his leadership as President, Long's Personnel Service was designated 1988 Small Business of the Year by the Mobile Area Chamber of Commerce; and

WHEREAS, in volunteer service to the community, Mr. Damson has served on the Mobile Area Chamber of Commerce, the Rotary Club, the Board of Directors of the Boys and Girls Clubs of Greater Mobile, the Private Industry Council, (former Vice President), the Commerce Executives Society of the University of Alabama and the TMAC-International Management Council; and

WHEREAS, he has authored numerous articles regarding unemployment compensation, hiring practices, management philosophy and retention of employees; he was designated "Man of the Year" by the Mobile Chapter of International Management Council in 1974, recognized in the "Outstanding Young Men of America" awards program in 1977, and designated a "Certified Personnel Consultant" in 1974; now therefore,



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Mr. Thomas S. Damson of Mobile, Alabama, for outstanding professional achievement and service to the community and congratulate him on his well-deserved recent honor.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Damson as a mere token of our highest esteem and warmest personal regard.

Approved May 4, 1989

Time: 5:02 P.M.

Act No. 89-559

H.J.R. 300—Reps. Zoghby, Kvalheim,  
Box, Harper and Gaston

#### HOUSE JOINT RESOLUTION

CONGRATULATING LUIS M. WILLIAMS, MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Luis M. Williams, a resident of Mobile, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Luis M. Williams, is an active member of Saint Ignatius Parish, Mobile, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Luis M. Williams of Mobile, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Luis M. Williams, Mobile, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:03 P.M.

Act No. 89-560

H.J.R. 299—Reps. Zoghby, Kvalheim,  
Box and Gaston

## HOUSE JOINT RESOLUTION

CONGRATULATING GORDON G. SMITH, III, MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Gordon G. Smith, III, a resident of Mobile, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Gordon G. Smith, III, a prominent entrepreneur who is an active member of Saint Ignatius Parish, Mobile, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Gordon M. Smith, III, of Mobile, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Gordon M. Smith, III, Mobile, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:04 P.M.

Act No. 89-561

H.J.R. 298—Reps. Zoghby, Kvalheim,  
Box and Gaston

## HOUSE JOINT RESOLUTION

CONGRATULATING ROBERT B. BARNETT, MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Robert B. Barnett, a resident of Mobile, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Robert B. Barnett, is an active member of Saint Ignatius Parish, Mobile, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Robert B. Barnett of Mobile, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Robert B. Barnett, Mobile, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:05 P.M.

Act No. 89-562

H.J.R. 297—Reps. Zoghby, Kvalheim,  
Box and Gaston

### HOUSE JOINT RESOLUTION

CONGRATULATING J. BRADLEY DONAGHEY, MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, J. Bradley Donaghey, a resident of Mobile, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, J. Bradley Donaghey, is an active member of Saint Ignatius Parish, Mobile, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir J. Bradley Donaghey of Mobile, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir J. Bradley Donaghey, Mobile, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:06 P.M.

Act No. 89-563

H.J.R. 296—Reps. Zoghby, Kvalheim,  
Box and Gaston

### HOUSE JOINT RESOLUTION

CONGRATULATING JOHN N. HECKER, MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, John N. Hecker, a resident of Mobile, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, John N. Hecker, is an active member of Holy Family Parish, Mobile, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir John N. Hecker of Mobile, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir John N. Hecker, Mobile, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:07 P.M.

Act No. 89-564

H.J.R. 295—Reps. Zoghby, Kvalheim,  
Box and Gaston

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HOUSE JOINT RESOLUTION

CONGRATULATING JOHN P. MACNAMARA, III, PH.D.,  
MOBILE, ALABAMA, KNIGHT OF THE ORDER OF SAINT  
GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, John P. MacNamara, III, Ph.D., a resident of  
Mobile, Alabama, recently was recognized, for meritorious work and  
zeal in service to the Catholic Church, by His Holiness John Paul  
II, who granted the Knighthood of Saint Gregory the Great, Civil  
Class to him; and

WHEREAS, this singular honor is a public sign of outstanding  
achievements, dedication to the Church and service to others of a  
high degree; and

WHEREAS, John P. MacNamara, III, is an active member of  
Saint Ignatius Parish, Mobile, Alabama, and he has served in many  
positions in organizations and boards of his Church, and his life has  
been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,  
BOTH HOUSES THEREOF CONCURRING, That we do most  
heartily congratulate Sir John P. MacNamara, III, Ph.D., of Mobile,  
Alabama, on the occasion of this Papal Honor and for his outstanding  
achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent  
to Sir John P. MacNamara, III, Ph.D., Mobile, Alabama, by the  
Clerk of the House, so that he may know of our high esteem and  
deep appreciation.

Approved May 4, 1989

Time: 5:08 P.M.

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Act No. 89-565

H.J.R. 294—Rep. Butler

HOUSE JOINT RESOLUTION

COMMENDING JIM AGNEW FOR DISTINGUISHED SERV-  
ICE TO THE HUNTSVILLE-MADISON COUNTY COMMUNITY  
AND DESIGNATING HIM AS "MR. AMBULANCE."

WHEREAS, Jim Agnew of Huntsville, has been engaged in the emergency medical service field for some 45 years, beginning as a sixteen-year-old teenager in part-time employment with an ambulance service in Blount County, Alabama; and

WHEREAS, since graduating from high school in 1947, Mr. Agnew has pursued his career on a full-time basis, with the exception of two years in the military during the Korean Conflict; he formerly worked with a funeral home ambulance service in Mobile and also in Southern California, before moving to Huntsville where he operated his own business from 1960-1973; and

WHEREAS, for the next few years, Jim Agnew continued to work for the company he had sold; he later worked for some five years for Excellence, an ambulance manufacturer, and has been back with HEMSI (Huntsville Medical Emergency Services, Inc.) for the past two years; and

WHEREAS, Jim Agnew, during the past four and one-half decades, has seen numerous changes in the emergency medical service field which has evolved from its former transportation function to its present service of providing emergency medical treatment by trained technicians, both on-the-scene and enroute to hospital facilities; and

WHEREAS, through the years, Jim Agnew has been credited with saving the lives of countless accident victims and those suffering from other medical emergencies and he has indeed earned the title of "Mr. Ambulance"; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Jim Agnew of Huntsville, Alabama, on his outstanding career in pursuit of excellence in emergency medical services, and for distinguished service to the citizens of Huntsville and Madison County; we further recognize, with gratitude, his outstanding professionalism and in gratitude for same, do hereby name and designate him as "Mr. Ambulance" in the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Jim Agnew that he may be aware of our sincere regard and of this honorary designation by the Alabama Legislature.

Approved May 4, 1989

Time: 5:09 P.M.

Act No. 89-566

H.J.R. 293—Rep. Cosby

## HOUSE JOINT RESOLUTION

COMMENDING ANGELINE WHEAT OF SELMA, ALABAMA, FOR DEDICATED AND HONORABLE SERVICE TO THE STATE OF ALABAMA.

WHEREAS, Angeline Wheat of Selma, Alabama, has rendered invaluable service to the State of Alabama for more than 17 years, beginning with her first employment as a stenographer with the Farmers Home Administration, following completion of a stenographic course at George Wallace Community College; and

WHEREAS, shortly thereafter, she was employed as a secretary with the Rehabilitation Center in Selma, and then became the secretary to work for the Crime Lab (Forensic Sciences) where she remained until the lab was disbanded; and

WHEREAS, Mrs. Wheat, following employment for four years with the State Employment Service, also in Selma, joined the Department of Public Safety on December 7, 1983, and her April 1, 1989, retirement marks the close of a truly dedicated tenure in service to the State of Alabama; and

WHEREAS, in addition, however, to the responsibilities of her career, Mrs. Wheat continued her education to receive an Associate degree from George Wallace Community College in Selma; she further became a Certified Professional Secretary in 1980 and, in 1988, was the recipient of the Most Outstanding Alumnus Award from George Wallace Community College and served as guest speaker at that year's graduation ceremonies; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Angeline Wheat of Selma, Alabama, for outstanding and dedicated service to the State of Alabama for more than 17 years, and do further direct that she receive a copy of this resolution of highest honor and esteem.

Approved May 4, 1989

Time: 5:10 P.M.

Act No. 89-567

H.J.R. 288—Reps. Turner, Gaston, Zoghby,  
Kvalheim, Harper, Kennedy,  
Buskey (JE) and Clark (W)

## HOUSE JOINT RESOLUTION

CONGRATULATING ALABAMA'S 1989 JUNIOR MISS,  
KIMBERLY MARIE WIMMER OF MOBILE.

WHEREAS, the Legislature of Alabama, in highest commendation, congratulates Kimberly Marie Wimmer of Mobile County as the 1989 Alabama Junior Miss and our state's representative to the forthcoming America's Junior Miss competition; and

WHEREAS, Miss Wimmer, the eighteen-year-old daughter of Mr. and Mrs. Clint Wimmer, is a student at Baker High School where she is a varsity cheerleader and Senior Class officer; she also is an Azalea Trail Maid, vice president of SADD, listed in Who's Who Among American High School Students, a member of Gayfer's Teen Board, and a member and youth choir member of Dauphin Way Baptist Church; and

WHEREAS, in addition to the State Junior Miss title, Kim was the first place winner in preliminary competition in the categories of physical fitness and poise and appearance; and

WHEREAS, also Miss Ideal Miss of 1986, as well as First Alternate and Miss Photogenic in the Miss Alabama Teen USA Pageant, Kim is a very talented young musician and actress who plans to study music and theater in college and later at New York University; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and great pride in her representation of our state as 1989 Alabama Junior Miss, we hereby most highly commend Kimberly Marie Wimmer of Mobile, and do further direct that she receive a copy of this resolution executed in sincere praise and with warm best wishes for every future success and happiness in life.

Approved May 4, 1989

Time: 5:11 P.M.

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Act No. 89-568

H.J.R. 287—Rep. Black

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MR. ELI CAMPBELL OF CHOCTAW COUNTY, ALABAMA.

WHEREAS, in sentiment of deep sadness and regret, the Legislature of Alabama records the death of Mr. Eli Campbell of Choctaw, Alabama, on March 15, 1989; and

WHEREAS, Mr. Campbell, who received his college education at Alabama A&M University, Huntsville, Alabama, and Tuskegee



University, taught in the public schools of Sumter County for over 32 years and served as principal and teacher of agribusiness at Kinterbish, Cuba, Alabama, and at York Westend in York, Alabama; and

WHEREAS, he also was an active and devoted member of the Shady Grove C.M.E. Church, an active member of several professional education associations, served as president of the Sumter County Education Association and was a supporter and proponent of numerous other civic, charitable and community endeavors; and

WHEREAS, among his notable contributions and achievements, he served as Senior Warden, Grove Lodge #89; Patron, Brookins Chapter #166; High Priest, Edward's Pride #95A; Secretary, Ezell-Towner Commandery #10 and he was a member of Abraham Consistory #257; and

WHEREAS, the death of Mr. Campbell has indeed left a deep void in the life of the community, as it has in the hearts of his family and many, many friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as deep sorrow is expressed in his death, gratitude is given for the life of Mr. Eli Campbell of Choctaw County, Alabama.

BE IT FURTHER RESOLVED, That we extend sincere and deepest sympathy to Mr. Campbell's loving and devoted wife, Mrs. Ruby Larkin Campbell, and five beloved daughters, and one son; and other family members, to whom a copy of this resolution shall be forwarded that they may know of our concern for them in their great grievous loss.

Approved May 4, 1989

Time: 5:12 P.M.

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Act No. 89-569

S.J.R. 191—Senators Goodwin and Covington

#### SENATE JOINT RESOLUTION

COMMENDING OUR COLLEAGUE LESTER WHITE OF DADEVILLE, RECIPIENT OF THE OUTSTANDING LEGISLATOR AWARD.

WHEREAS, it is with great personal pleasure that the Alabama Legislature congratulates our colleague Lester White of Dadeville as the recipient of the Department of Human Resources Commissioner's

Merit Award recognizing Mr. White as Outstanding Legislator of the Year; and

WHEREAS, cited by the Commissioner for his "interest in the betterment of the quality of life for the citizens of Alabama," Representative White was nominated for this prestigious honor by the Tallapoosa County DHR; and

WHEREAS, in dedicated support of the Department of Human Resources and the vital services the department provides, Mr. White was the sponsor of the legislation which changed the name of the agency to the Department of Human Resources, thereby creating a more positive image of the department; he also has sponsored two fee bills regarding the investigation of independent adoption placements and investigations of custody disputes; and

WHEREAS, Lester White has indeed been a faithful friend and strong supporter of the Department of Human Resources for a number of years and, for his continuing championship of the needs of DHR, has earned the gratitude of the entire department; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consensus of commendation with the Department of Human Resources, we hereby recognize our colleague Lester White of Dadeville, Alabama, for outstanding support of the needs of the children and all citizens of the State of Alabama; we further congratulate him as the recipient of the Commissioner's Award of Merit as the Outstanding Legislator of the Year, and direct that he receive a copy of this resolution of sincere praise and highest personal regard.

Approved May 4, 1989

Time: 5:13 P.M.

Act No. 89-570

S.J.R. 188—Senators Bedsole, Windom,  
Hand and Figures

#### SENATE JOINT RESOLUTION

NAMING THE HUMAN RESOURCE CENTER AT SEARCY HOSPITAL IN MOUNT VERNON, ALABAMA, THE "DR. E. L. MCCAFFERTY, SR., HUMAN RESOURCE CENTER."

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes the distinguished service rendered by the McCafferty Family of Mount Vernon, Alabama, to Searcy Hospital; and

WHEREAS, during the lengthy tenure of some 83 years with Searcy Hospital, the McCafferty's Family, Dr. E. L. McCafferty, Sr., was the first on-site superintendent and served in that capacity from 1903 until his death in 1946; and

WHEREAS, during Dr. McCafferty's superintendency another noted Alabama physician, Dr. George Searcy made medical history at Searcy Hospital by making the first diagnosis of Italian pellagra from descriptions of symptoms affecting the hospital's patients; and

WHEREAS, Dr. McCafferty, appointed to his position of superintendent by Dr. George Searcy's father, Dr. James T. Searcy, was actively involved in the pellagra research; and

WHEREAS, he corresponded with Dr. George Washington Carver and Dr. Carver sent peanut oil to the hospital to be used in the treatment of Italian pellagra which proved to be effective; and

WHEREAS, continuing the benevolence and contributions of his father, Dr. E. L. McCafferty, Jr., began his association with Searcy as a surgical consultant on a "call as needed" basis under Dr. Harry S. Rowe, superintendent at the death of the senior Dr. McCafferty in 1946; and

WHEREAS, in 1970, Dr. McCafferty, Jr., began visiting the hospital each week as a surgical consultant and performing routine surgeries at the hospital until the mid-1970's when regular surgery was initiated; and

WHEREAS, in 1971, Dr. McCafferty, Jr., established the Searcy Chapel Fund, Inc., and with his efforts and a community campaign to raise funds for the chapel, the chapel was completed and dedicated in December, 1975; and

WHEREAS, in 1981, the scope of the Chapel Fund Foundation was expanded and renamed the Friends of Searcy Hospital Foundation, Inc., of which Dr. McCafferty, Jr., served as chairman until his retirement from the board in December, 1988; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Human Resource Center at Searcy Hospital in Mount Vernon, Alabama, is hereby named and designated as the "Dr. E. L. McCafferty, Sr., Human Resource Center."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said facility as the "Dr. E. L. McCafferty, Sr., Human Resource Center."

RESOLVED FURTHER, That a copy of this resolution be forwarded to Dr. E. L. McCafferty, Jr., as a memento of this honorary designation of the Alabama Legislature.

Approved May 4, 1989

Time: 5:14 P.M.

Act No. 89-571

S.J.R. 187—Senator Rice

### SENATE JOINT RESOLUTION

COMMENDING THE LOACHAPOKA HIGH SCHOOL INDIANS ON THEIR OUTSTANDING 1988-1989 BASKETBALL SEASON.

WHEREAS, in highest commendation, the Legislature of Alabama extends congratulations to Loachapoka High School on its spectacular 1988-1989 basketball season and the team's capture of the Class 1A State Championship; and

WHEREAS, the Indians' come-from-behind 61-58 victory over the Chambers County Lions on March 11, 1989, netted the school its second straight Class 1A championship; and

WHEREAS, under the skillful leadership of Coach Larry DiChiara and his Assistant Coaches Terry Murph and Dwight Howard, the Loachapoka Indians posted a phenomenal 30-5 overall season record, a performance that reflects the dedication and will-to-win spirit of the school; and

WHEREAS, contributing greatly to the Loachapoka's 1988-1989 season were Indians Walter Pitts, Henry Yancey, Bo Pitts, Merrell Warren, Lopez Dowdell, Andre Hutchinson, Carl Williams, Nick Porter, Calvin Crabb, David Dumas, Charlie Matthews, Johnny Jackson, and Demetric Tyson; Trainers Doug Jones and Lonnie Love, also played a big part in Indians' success; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Larry DiChiara, his staff and Loachapoka High School on their outstanding basketball season, and direct that copies of this resolution be forwarded to George Ervin, principal, and T. C. Britton, Jr., superintendent, for appropriate presentation and school display.

Approved May 4, 1989

Time: 5:15 P.M.

Act No. 89-572

S.J.R. 185—Senator Hand

## SENATE JOINT RESOLUTION

COMMENDING DR. GARY L. BRANCH, PRESIDENT OF FAULKNER STATE JUNIOR COLLEGE IN BAY MINETTE, ALABAMA.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama takes formal note of the distinguished career of Dr. Gary L. Branch of Bay Minette, Alabama; and

WHEREAS, Dr. Branch was recently honored by Phi Theta Kappa at its annual convention in Atlanta, Georgia, with the prestigious "Bennett Distinguished President Award" for 1989; and

WHEREAS, Phi Theta Kappa is the only nationally recognized honor fraternity for America's junior colleges and its membership selected Dr. Branch as the most outstanding junior college president in the nation; and

WHEREAS, in addition to serving as President of James A. Faulkner State Junior College—a position he has held since 1981—his numerous community contributions include serving as Past President of North Baldwin County Chamber of Commerce, Past Chairman of United Way, Board of Directors of Baldwin County Cancer Society, Bay Minette Revitalization Committee, Past Chairman of Save the Terminal Committee, Past President of Fayette County Heart Association, Fayette Park and Recreation Authority, Past President of Troy Recreation and Day Care Board, Past President of Parent Teacher Association, Little League Baseball Coach, County Mental Health Association and Past Chairman of Sustaining Membership Drive for Boy Scouts of America; and

WHEREAS, Dr. Branch is a prominent and influential leader in the civic, social and religious life of his city and he is particularly interested in local projects for young people; and

WHEREAS, a recital of his many accomplishments would be incomplete without the inclusion of the many contributions which he has made to the thousands of students whose lives have been influenced by his teaching and wise counsel, and who will long remember his many personal kindnesses and quiet understanding; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend and congratulate Dr. Gary L. Branch, of Bay Minette,

Alabama, for outstanding professional achievement and upon his recent well-deserved honor.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to Dr. Branch as a mere token of our high esteem and warmest personal regard.

Approved May 4, 1989

Time: 5:16 P.M.

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Act No. 89-573

S.J.R. 177—Senator Langford

### SENATE JOINT RESOLUTION

CONGRATULATING MARGARET ELMORE, MONTGOMERY, ALABAMA, RECIPIENT OF THE PAPAL MEDAL OF HONOR.

WHEREAS, Margaret Elmore, a resident of Montgomery, Alabama, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness John Paul II, which was established in 1888 as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, Margaret Elmore, a member of St. Jude Catholic Church, has been active in her parish and community; she has served on the boards of Catholic Social Services, the boards of the Montgomery Deanery and the Archdiocesan Council of Catholic Women, the Catholic Black Caucus; and she has been an active member in the Alpha Kappa Alpha Society and the Ladies Auxiliary of the Knights of Peter Claver, and she is a retired language teacher in the Montgomery County School System; and her life has been faith filled in service to others for the betterment of her church and community; and

WHEREAS, Margaret Elmore has so unselfishly given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration for others to reach out to the needs of others and her family life has been exemplary; and she has received many community honors, the most recent of which was being named as one of 11 "Women of Achievement of 1988" in Montgomery, Alabama; for her work with Meals on Wheels and the Montgomery Area Council on Aging; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady Margaret Elmore, Montgomery, Alabama,

for her outstanding achievements and particularly for her dedication to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. Margaret Elmore, Montgomery, Alabama, so that she may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:17 P.M.

Act No. 89-574

S.J.R. 176—Senators Bedsole, Figures,  
Windom, Hand and  
Amari

### SENATE JOINT RESOLUTION

COMMENDING PAUL S. TIPTON, S. J., FOR DISTINGUISHED SERVICE AS PRESIDENT OF SPRING HILL COLLEGE, MOBILE, ALABAMA.

WHEREAS, Birmingham native, Paul S. Tipton, S. J., currently serves as the twenty-third president of Spring Hill College, having assumed the office in 1972 at the age of 33 to become the youngest president of a Jesuit college in the nation and one of the youngest college presidents in the United States; and

WHEREAS, President Tipton, who has announced his retirement, will complete 17 years of service to Spring Hill College at the close of the spring semester and, during this distinguished tenure, the college has prospered significantly in all areas; and

WHEREAS, notable among his accomplishments were the reorganization of the administration, the rewriting of the Charter and Bylaws of the college, the establishment of an expanded Board of Trustees and the initiation of an evaluation program for faculty and administrators; and

WHEREAS, he also instituted an office for Long-range Planning, established three graduate programs as well as a satellite campus for graduate studies in Jackson, Mississippi, and has overseen a major renovation and construction program for the college's physical facilities; and

WHEREAS, other accomplishments of his tenure include the quadrupling of the size of the permanent endowment of the college, the initiation of a new semester-abroad program, and the development

of a curriculum with a strong core requirement for all students, among numerous other programs of positive change and development; and

WHEREAS, President Tipton's leadership has indeed left a lasting mark on Spring Hill College in Mobile, and we are grateful for his contributions and legacy to Alabama's oldest college; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished service as president of Spring Hill College for the past 17 years, we hereby commend Paul S. Tipton, S. J., for whom a copy of this resolution of highest honor shall be provided.

Approved May 4, 1989

Time: 5:18 P.M.

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Act No. 89-575

H.J.R. 434—Rep. Payne

#### HOUSE JOINT RESOLUTION

COMMENDING BRYAN PATRICK THARP OF CHALKVILLE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, twelve-year-old Bryan Patrick Tharp of Chalkville, Alabama, began playing soccer at the Northeast YMCA in May 1983 at the age of six; and

WHEREAS, after four seasons with the YMCA team, he began playing for the Trussville Soccer Association in the Spring of 1985; and

WHEREAS, completing four seasons with the Trussville Association, Bryan Patrick Tharp then joined The Hewitt Husky Soccer Club (Spring 1986); in the Spring of 1988, he was selected to the Mid-State District Select Team which defeated the Tennessee and Georgia State Champions in tournament play, and, also in 1988, he was a member of the Alabama Sports Festival Bronze Medal Team; and

WHEREAS, we further note that in the Spring of 1989, every registered soccer player in the State of Alabama was invited to try out for the Olympic Development Program and, from these statewide tryouts, Bryan was selected as one of the 24-member Olympic Development Pool for those born after August 1, 1976; and

WHEREAS, this is the first step in a development process to lead to the U. S. Olympic Team and, as a member of this select



pool, he will be representing Alabama in competition with teams from throughout the Southeastern United States; and

WHEREAS, Bryan Tharp is indeed to be congratulated on this outstanding honor which is the highest honor a young soccer player of his age can achieve; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and as one of the 24 best soccer players in the State, we hereby commend Bryan Patrick Tharp of Chalkville, Alabama, to whom a copy of this resolution of esteem shall be presented.

Approved May 4, 1989

Time: 5:19 P.M.

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Act No. 89-576

H.J.R. 433—Rep. Payne

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DAVID ERIC WREN OF CENTER POINT, ALABAMA.

WHEREAS, it is with a sense of great loss that the Legislature of Alabama grievously records the tragic death of David Eric Wren of Center Point, Alabama, on April 5, 1989, at the age of 15 years; and

WHEREAS, Eric Wren was a sophomore at E. B. Erwin High School and attended Hilddale Baptist Church; and

WHEREAS, Eric reflected the uncommon endowments of foresight, perseverance, and capacity for intelligent leadership and he shall be missed keenly by his host of friends to whom he gave so generously of his talents and friendship; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; he gained the respect and affection of all who knew him, whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the untimely death of David Eric Wren of Center Point, Alabama, and extend sincere and deepest sympathy to his parents, Mr. and Mrs. Dwight R. Wren, Sr.; his father, David Rick Daniel;

his sister, Angela Wren; his brother, Dwight R. Wren, Jr.; his step-sister, Tonya Wren; and his grandparents, Mr. and Mrs. John R. Wren, Jr., Mrs. Gladys Barr and Mrs. Ann J. Daniel, for whom copies of this resolution shall be provided that they may know of our shared sorrow in their inconsolable loss.

Approved May 4, 1989

Time: 5:20 P.M.

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Act No. 89-577

H.J.R. 432—Rep. Payne

### HOUSE JOINT RESOLUTION

#### MOURNING THE UNTIMELY DEATH OF NATHAN WAYNE VERNON OF CENTER POINT, ALABAMA.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the lamentable and untimely death of Nathan Wayne Vernon of Center Point, Alabama, on April 5, 1989, at the early age of just 16 years; and

WHEREAS, Wayne Vernon was a sophomore at E. B. Erwin High School and a member of the Pinson Valley Baptist Church; and

WHEREAS, Wayne reflected the uncommon endowments of foresight, perseverance, and capacity for intelligent leadership and he shall be missed keenly by his host of friends to whom he gave so generously of his talents and friendship; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; he gained the respect and affection of all who knew him, whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the tragic death of Nathan Wayne Vernon of Center Point, Alabama, and extend sincere and deepest sympathy to his parents, Mr. and Mrs. Nathan Vernon; his brother, Mike Vernon; and his grandmother, Mrs. Dorothy Cheshire, for whom copies of this resolution shall be provided that they may know of our shared sorrow in their inconsolable loss.

Approved May 4, 1989

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Act No. 89-578

H.J.R. 431—Rep. Payne

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF SONYA DeANN HALLMARK OF PINSON, ALABAMA.

WHEREAS, it is with a sense of great loss that the Legislature of Alabama grievously records the tragic death of Sonya DeAnn Hallmark of Pinson, Alabama, on April 5, 1989, at the age of 18 years; and

WHEREAS, Miss Hallmark was a 1988 graduate of Hewitt-Trussville High School, attended Jefferson State Community College and worked part-time as a cashier at the Winn-Dixie supermarket; she was a member of the Clearview Baptist Church; and

WHEREAS, Sonya DeAnn Hallmark reflected the uncommon endowments of foresight, perseverance, and capacity for intelligent leadership and she shall be missed keenly by her host of friends to whom she gave so generously of her talents and friendship; and

WHEREAS, she exhibited throughout her life those admirable attributes of friendliness, devotion to duty, and concern for her fellowman; she gained the respect and affection of all who knew her, whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the untimely death of Sonya DeAnn Hallmark of Pinson, Alabama, and extend sincere and deepest sympathy to her parents, Mr. and Mrs. Larry Hallmark; her sister, April Delane Hallmark; her grandparents, Margaret and J. W. Green and Owen and Jeanette Hallmark; and to other family members for whom a copy of this resolution shall be provided that they may know of our shared sorrow in their inconsolable loss.

Approved May 4, 1989

Time: 5:22 P.M.

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Act No. 89-579

H.J.R. 429—Rep. Bryant

## HOUSE JOINT RESOLUTION

COMMENDING THE FRANCIS MARION HIGH SCHOOL RAMS ON THE 1988-1989 STATE CLASS 2A BASKETBALL CHAMPIONSHIP.

WHEREAS, it is with great pleasure that the Alabama Legislature congratulates the Francis Marion High School Rams on the State Class 2A Basketball Championship for 1988-1989; and

WHEREAS, under the outstanding leadership of Head Coach Woodie Jackson and Assistant Coach Anthony Trimble, the mighty Rams from Marion beat Al Johnson, Paramount, Marion County and Holy Family to advance to the State Tournament; and

WHEREAS, the Francis Marion Rams, after knocking off J. F. Shields and Clay County in State rounds one and two, mauled McIntosh (87-49) in the Finals to claim the 1988-1989 State Crown and, for the first time in history, a Perry County school had won back-to-back Basketball Titles; and

WHEREAS, we further note that the Rams were voted by sportswriters as one of the 10 best teams in the State, in all classifications, and Francis Marion also was one of only five schools to advance both boys' and girls' teams to the 1989 State Tournament; and

WHEREAS, those to be most highly praised for their contributions to the Rams' outstanding 31-3 season are 2A Champions Willie Shears (MVP 2A State, All-Area Tournament Team and First Team 2A All-State), Keith Tubbs (All-Area Tournament Team, Honorable Mention All-State and Shades Valley Invitational All-Tournament Team), Joseph Moore (All-Area Tournament Team and Honorable Mention All-State), Samuel Hollis (Honorable Mention All-State and All-Area Tournament Team), Chester Lapsley (All-Area Tournament Team) and Darrell Norfleet (All-Area Tournament Team and Honorable Mention All-State), along with their talented teammates Jerry Mayhan, Burt Parker, Severn Sanders, Robert Turner, Chris Ford and Charles Tubbs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and as our State Class 2A Basketball Champions (1988-1989), we hereby most heartily congratulate and commend the Francis Marion High School Rams and Coaches Jackson and Trimble, and do further direct that copies of this resolution be provided for presentation to Principal Maxine Coley, Athletic Director Edward Daniel, Coaches Jackson and Trimble and the Rams, and for appropriate school display.

Approved May 4, 1989

Time: 5:23 P.M.

Act No. 89-580

H.J.R. 428—Reps. Buskey (JL), Holmes,  
Walker, McKee and Hooper

### HOUSE JOINT RESOLUTION

#### COMMENDING THE MONTGOMERY COUNTY EDUCATION ASSOCIATION.

WHEREAS, the Montgomery County Education Association is among the winners of the First Annual A+ Awards for Excellence in Education from the National Education Association; and

WHEREAS, MCEA was cited by the NEA for its efforts to enhance learning opportunities for students; and

WHEREAS, MCEA Award Winner, the "Montgomery Opportunity School Program," which continues to date, was started in 1985 to combat the city's high dropout rate and to provide a safe environment for the growing numbers of latchkey children; and

WHEREAS, the project is operated by certified volunteer teachers, and this program features after-school services for hundreds of elementary and junior high school students in five general areas, homework, remediation, study skills, reading skills, and self-enhancement, at three elementary and two junior high schools; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement, we commend the Montgomery County Education Association for receiving the National Education Association A+ Award.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for presentation to the Montgomery County Education Association.

Approved May 4, 1989

Time: 5:24 P.M.

Act No. 89-581

H.J.R. 427—Rep. Bugg

### HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE 100TH ANNIVERSARY OF THE GADSDEN CITY SCHOOLS.

WHEREAS, on February 28, 1889, Act No. 560 of the General Assembly of Alabama created the Gadsden Public School District as a district separate and apart from the remaining school districts of Etowah County, Alabama; and

WHEREAS, on February 28, 1989, the Gadsden City Board of Education celebrated the Centennial Anniversary of the Gadsden Schools, and was joined by the community in observing this milestone event in the one-hundred-year history of the Gadsden City Schools, and in recognizing the many outstanding educational opportunities and benefits provided by the system during its first century of service to the children and youth of Gadsden; and

WHEREAS, in marking this significant point in progress, the Legislature is cognizant that the accomplishments of the Gadsden City Schools, during the first century of growth, are to the credit of its superintendents, principals, teachers, support personnel and students, both past and present; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein recognize, with highest praise, the Centennial observance of the Gadsden City Schools, and do further commend the Gadsden City Board of Education, administrators, staffs and students as they enter upon a second century of progress for the Gadsden City Schools.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the superintendent and president of the board of education of the Gadsden City School System.

Approved May 4, 1989

Time: 5:25 P.M.

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Act No. 89-582

H.J.R. 426—Rep. Bugg

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF LESLEY ANN KAYLOR OF ATTALLA, ALABAMA.

WHEREAS, it is with a sense of great loss that the Legislature of Alabama grievously records the tragic death of Lesley Ann Kaylor of Attalla, Alabama, on March 26, 1989, at the age of 16 years; and

WHEREAS, Miss Kaylor was a native of Etowah County and a resident of Attalla most of her life; she was a member of Cave Springs Baptist Church and a student at Etowah High School; and

WHEREAS, Lesley Ann Kaylor reflected the uncommon endowments of foresight, perseverance, and capacity for intelligent leadership and she shall be missed keenly by her host of friends to whom she gave so generously of her talents and friendship; and

WHEREAS, she exhibited throughout her life those admirable attributes of friendliness, devotion to duty, and concern for her fellowmen; she gained the respect and affection of all who knew her, whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the untimely death of Lesley Ann Kaylor of Attalla, Alabama, and extend sincere and deepest sympathy to her parents, Dean and Judy Kaylor; her grandparents, Warring Perry and Harlan and Elizabeth Kaylor; her sister and brother, Bridget and Adam Kaylor; and other family members for whom a copy of this resolution shall be provided that they may know of our shared sorrow in their inconsolable loss.

Approved May 4, 1989

Time: 5:26 P.M.

Act No. 89-583

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H.J.R. 425—Reps. Burke, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Logan, Marietta,

Marks, Mathis, McClain,  
 McDowell, McKee,  
 McMillan, Melton, Mikell,  
 Moon, Newman, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos,  
 Poole, Rains, Richardson,  
 Rogers, Sanderford, Seibels,  
 Slaughter, Spratt, Starkey,  
 Thomas, Turner, Turnham,  
 Venable, Walker, Warren,  
 White (F), White (G),  
 White (L), Williams, Willis,  
 Wright and Zoghby

### HOUSE JOINT RESOLUTION

CONGRATULATING REPRESENTATIVE AND MRS. RICHARD LINDSEY ON THE BIRTH OF A DAUGHTER.

WHEREAS, the Legislature of Alabama, in great personal pleasure, congratulates Representative and Mrs. Richard Lindsey on the birth of a beautiful baby daughter, Anna Elizabeth Lindsey, on January 24, 1989; and

WHEREAS, Anna Elizabeth, who weighed eight pounds and one ounce at birth, is the Lindsey's second child and we are indeed happy for both Johna and Richard, and for Anna Elizabeth's big brother, Richard Joe; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate our good friends, Richard and Johna Lindsey, on the birth of little Anna Elizabeth, January 24, 1989, and wish for them all increasing happiness with every passing year.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Representative and Mrs. Lindsey, and that a copy also be provided for Anna Elizabeth that she may later know of the happiness we shared with her parents on the occasion of her birth.

Approved May 4, 1989

Time: 5:27 P.M.

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Act No. 89-584

H.J.R. 418—Rep. Beers

### HOUSE JOINT RESOLUTION

COMMENDING THE PIZITZ MIDDLE SCHOOL BAND IN VESTAVIA HILLS, ALABAMA.



WHEREAS, it is with a sense of great personal pride that the Legislature of Alabama congratulates the Pizitz Middle School Band as the recipient of the "Band of the Month" award by Bandribbons, Inc., for the month of November 1988; and

WHEREAS, this outstanding national honor was bestowed upon the Pizitz Band following competition with other bands from throughout the United States; and

WHEREAS, the Pizitz Band also performed for the prestigious "Southern Instrumental Conductor's Conference" sponsored by the University of Southern Mississippi and was the only middle school selected to perform for the conference; and

WHEREAS, the Pizitz Band was rated "Superior" in District Festival Competition for the thirteenth consecutive year and was rated "Superior" at the Alabama State Band Competition Festival; and

WHEREAS, Director Frank Buck and his outstanding young student musicians have indeed brought great honor to their school and to the entire State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and as the recipient of the Band of the Month Award, we hereby commend the Pizitz Middle School Band, and do further direct that copies of this resolution be forwarded to Director Buck for presentation to the band and for appropriate school display.

Approved May 4, 1989

Time: 5:28 P.M.

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Act No. 89-585

H.J.R. 417—Rep. Breedlove

### HOUSE JOINT RESOLUTION

COMMENDING SHANE DICKERSON OF FRUITDALE HIGH SCHOOL, DISTRICT V TEACHER OF THE YEAR.

WHEREAS, it is with utmost pride and pleasure, that the Legislature of Alabama notes the selection of the Washington County Teacher of the Year, Shane Dickerson, band director at Fruitdale High School, as 1988-1989 Teacher of the Year for District V which comprises an 18-county area; and

WHEREAS, Mr. Dickerson, one of eight finalists for Alabama Teacher of the Year, was educated in the Washington County Public

Schools and is a 1972 graduate of Washington County High School; he attended Auburn University as a music education major, and has studied additionally at Richmond College and Guildhall School of Music; and

WHEREAS, during Mr. Dickerson's tenure at Fruitdale High School and under his talented leadership and tutelage, the Fruitdale band has performed at the State Capitol and at two World's Fairs; the band further has received superior ratings at district level for the past four years, and has rated excellent as well at the state level of competition; and

WHEREAS, Shane Dickerson has indeed demonstrated outstanding professional dedication, in devoting his total efforts and considerable talent toward a goal of educational excellence for his students at Fruitdale High School; and

WHEREAS, Mr. Dickerson, in addition to his teaching responsibilities, has extended his professional involvement to include membership in both the Mobile Opera Orchestra and the City of Mobile Symphonic Pops Band; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement and service, and as District V Teacher of the Year, we hereby commend Shane Dickerson of Fruitdale High School, Washington County, Alabama, and direct that he receive a copy of this resolution of sincere warm praise and esteem.

Approved May 4, 1989

Time: 5:29 P.M.

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Act No. 89-586

H.J.R. 416—Rep. Colvin

### HOUSE JOINT RESOLUTION

COMMENDING DAVID BRYANT SMITH OF GADSDEN, ALABAMA.

WHEREAS, David Bryant Smith of Gadsden, Alabama, is being honored by that community, for his outstanding accomplishments as a quarterback for the University of Alabama Crimson Tide, and is being recognized as well for his persistent courage and fortitude in overcoming the many injuries of his career; and

WHEREAS, David Smith, who as a senior was selected as a permanent team offensive captain by his teammates, came to Alabama

as a walkon, and went on to win a scholarship and to become one of the leading quarterbacks in the SEC; and

WHEREAS, a quarterback-punter and All-state baseball star at Gadsden's Southside High, David Smith's injuries began as a senior with a knee injury requiring surgery; at Tennessee Military Institute he suffered a broken collarbone in the 3rd game, missing the remainder of the season; as a junior at Alabama, after starting the first four games, he suffered a broken right collarbone against Vanderbilt, to miss six games of the season; and on September 13, 1988, following the season's opening game of his senior year, suffered a severe knee injury requiring surgery, but returned for the fourth game to lead the Tide's victory over Tennessee; and

WHEREAS, among the many highlights of his career, David Smith in 1988 was named SEC Player of the Week in games against Mississippi State and Texas A&M; was the Birmingham Quarterback Club SEC Offensive Player of the Year; CBS Player of the Game against LSU, and ESPN Player of the Game against Texas A&M; was Sun Bowl MVP, and was selected to the Football News' All-Bowl Team; and

WHEREAS, he further set Alabama's All-time bowl record of 33 completions out of 52 pass attempts for 412 yards and two touchdowns; tied the Tide's 1977-78 record for most passes (100) without an interception; and set Bama's All-time completion percentage of passes attempted/completed; and

WHEREAS, David Smith, now pursuing his Master's degree in industrial marketing at the University, received his B.S. degree in 1988 with an overall 3.54 grade point average; he also was named to the SEC Academic Honor Roll and was the recipient of the University of Alabama Alumni Pat Trammel Award, the Paul Bryant Award for academic excellence, and the Anniston Boys Club Citizen of the Year, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join the Gadsden community in commending David Bryant Smith for outstanding achievement, and do further direct that he be presented with a copy of this resolution, executed in warmest personal regard and in sincere admiration of his many accomplishments.

Approved May 4, 1989

Time: 5:30 P.M.

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Act No. 89-587H.J.R. 413—Reps. Mathis, Beasley  
and Carothers

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WALTER OTIS MENDHEIM  
AND HETTIE M. AMAN, HOUSTON COUNTY, ALABAMA.

WHEREAS, the Alabama Legislature is saddened to learn of the tragic deaths of Walter Otis Mendheim and Hettie M. Aman on March 30, 1989; and

WHEREAS, Walter Otis Mendheim and Hettie M. Aman were brother and sister and lifelong natives of Houston County and contributed immeasurably to the betterment of their respective communities of Dothan and Ashford; and

WHEREAS, Walter Otis Mendheim, age 73, was an environmentalist with the Houston County Health Department for 33 years and also served as the deputy sheriff of Houston County; he was a member of the Southside Baptist Church; and

WHEREAS, Hettie M. Aman, age 88, was the widow of William Benjamin Aman, and was active as a member of the Ashford Senior Citizens and devout member of the First Assembly of God Church in Ashford and faithful member of the adult Bible Sunday School class; she was the mother of six children, eighteen grandchildren and twenty-eight great grandchildren and a devoted family member; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most grievously mourn the deaths of brother and sister, Walter Otis Mendheim and Hattie M. Aman and extend our sincere sympathy to the family members of each.

RESOLVED FURTHER, that copies of this resolution be sent to the respective families of Walter Otis Mendheim and Hettie M. Aman so that they may know of our sense of shared loss.

Approved May 4, 1989

Time: 5:31 P.M.

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Act No. 89-588

H.J.R. 410—Rep. Harvey

## HOUSE JOINT RESOLUTION

NAMING THE AUDITORIUM AT J. B. PENNINGTON HIGH  
SCHOOL IN BLOUNTSVILLE, ALABAMA, IN HONOR OF  
RUFUS BIRL BRYSON.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the numerous civic and charitable contributions of Mr. Rufus Birl Bryson of Blountsville, Alabama; and

WHEREAS, Mr. Bryson served as the second principal of J. B. Pennington High from 1959 to 1983, contributing generously of his time, talent and means; and

WHEREAS, Birl Bryson has exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; and

WHEREAS, a recital of his many accomplishments would be incomplete without the inclusion of the many contributions which he has made to the thousands of students whose lives were influenced by his teaching and wise counsel, and who will long remember his many personal kindnesses and quiet understanding; and

WHEREAS, in recognition of Birl Bryson's numerous contributions to the community and his outstanding service during the 24 years of progress for J. B. Pennington High School, it is highly desirable that his name be perpetuated in an appropriate fashion; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the auditorium at J. B. Pennington High School in Blountsville, Alabama, as the "Birl Bryson Auditorium."

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers so designating said auditorium and that copies of this resolution be forwarded to the Board of Education and to Mr. Rufus Birl Bryson.

Approved May 4, 1989

Time: 5:32 P.M.

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Act No. 89-589

H.J.R. 409—Rep. Laird

### HOUSE JOINT RESOLUTION

COMMENDING BOBBY D. JONES OF LAFAYETTE, ALABAMA, ON HIS RECENT HONOR AS CITIZEN OF THE YEAR.

WHEREAS, in consensus of highest commendation, the Alabama Legislature congratulates Bobby D. Jones of LaFayette, Alabama, as Citizen of the Year, a prestigious designation of the Greater Valley

Area Chamber of Commerce in recognition of his outstanding service to the Chamber and the area it serves; and

WHEREAS, Mr. Jones, General Manager of Tallapoosa River Electric Cooperative and former manager of Member Services, Electric Operations and Assistant Manager with TREC, is a graduate of Auburn University with the bachelor's degree and is a United States Air Force veteran; and

WHEREAS, he further serves on the board of the GVACC; is a faithful member and Bible class teacher at LaFayette Church of Christ; and is a supporter, as well, of a number of other civic and community affairs in the LaFayette and Valley area; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Citizen of the Year, Bobby D. Jones of LaFayette, Alabama, for outstanding community service and leadership, and do further direct that he receive a copy of this resolution of honor and esteem.

Approved May 4, 1989

Time: 5:33 P.M.

Act No. 89-590

H.J.R. 402—Reps. Burke, Butler, Lindsey  
and Rains

### HOUSE JOINT RESOLUTION

#### COMMENDING "ALABAMA."

WHEREAS, it is with great personal pride that the Alabama Legislature congratulates the group "Alabama" of Fort Payne, Alabama, as the recipient of the Artist of the Decade Award for the eighties; and

WHEREAS, internationally renowned as a group, Randy Owen, Mark Herndon, Teddy Gentry and Jeff Cook serve as our ambassadors throughout the nation and the world, and this most recent award brings further fame and honor to the State of Alabama; and

WHEREAS, during the eighties, "Alabama" has produced 21 Number One records in a row, including the Honorary State Song, "My Home's in Alabama," and has receive two Grammys, seven Country Music Association awards, two American Music Awards and 14 Academy of Country Music Awards; and

WHEREAS, "Alabama" now is a member of an elite trio which includes country music's Marty Robbins and Loretta Lynn, Artist

of the Decade recipients for the sixties and seventies, respectively; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement, and in gratitude for the enjoyment and pleasure of their gift of music to the world, we hereby most highly commend our own "Alabama," of whom we are justly proud and for whom copies of this resolution shall be provided.

Approved May 4, 1989

Time: 5:34 P.M.

Act No. 89-591

H.J.R. 398—Rep. Payne

### HOUSE JOINT RESOLUTION

CONGRATULATING THE ERWIN HIGH SCHOOL BASKETBALL TEAM ON THEIR ACCOMPLISHMENT OF THE 1988-1989 SEASON.

WHEREAS, the Legislature of Alabama most heartily congratulates the 1988-1989 Erwin High School Basketball Team on their many accomplishments of the season, and on the 5A Area 10 Championship which followed their 6A Area 10 Title in 1987-1988; and

WHEREAS, although losing their opening games to Hueytown, Erwin High then won five straight games, over Mt. Brook, Fultondale, Vestavia and arch rivals Hewitt and Pinson, before losing their last three games in 1988; and

WHEREAS, after playing off and on through the month of January, an Erwin victory over Arab in early February was followed by a loss to Gardendale; under Coaches Hal Riddle, Bill Scruggs and Wayne Woodman, however, a fired-up Erwin team, in an electrifying turn-around, finished with five wins in a row before losing to Gadsden in the Sub-State Finals; and

WHEREAS, Erwin's February wins, in addition to 6A Sub-State Finalist Arab, included 4A Sub-State Finalist Fultondale; in the Area 10 Tournament, Erwin High School beat Pinson and Leeds in the Finals to win the 5A Area 10 Title and, in round one of Sub-State, beat John Carroll in overtime before losing to Gadsden to end the season; and

WHEREAS, the Erwin High School Basketball Team, members, each of whom greatly contributed to Erwin's overall 15-14 season

record and the Area Championship, are MVP Sebastian Dickens, Marty Smith, Brent Justice and David Padgett who were named to the Area Tournament Team, and their talented teammates Chris Leathers, Cam Self, Chris Elmore, Kirk Abernathy, Robbie Huber, Keith Blanton and Jon Southworth, with Max Bender as manager; and

WHEREAS, sponsor Jeanette Mizerany's Erwin High School Cheerleaders are Molly Myers, Karen Sykes, Missy Smith, Jennifer Wilson, Jessica Wilson, Stacey Carrigan, Jennifer Wilder, Brandi Gibbs, Krista Thompson, Paige Hope, Nikki Windham, Lori Robinson, Beth Sanders, Kristi Glasscox and Jeanie Plott; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of their outstanding accomplishments of the 1988-1989 season, we hereby congratulate and commend the Erwin High School Basketball Team, and their Head Coach Hal Riddle and direct that two copies of this resolution be provided for appropriate presentation and school display.

Approved May 4, 1989

Time: 5:35 P.M.

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Act No. 89-592

H.J.R. 396—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

COMMENDING APRIL HARVILL OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends April Harvill on her selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as "ambassadors" for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux Trey Dickson, Amy Johns, Holmes Hendrickson, Donna Murph, Robert Scott Lewis, Toni James and Etchridge Means, April was selected on the basis of her academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, April, this year's only returning member of Belles and Beaux, is a member of the Youth Choir at First Baptist Church where she also assists with Children's Church and Bible School; she sings with the Swing Choir at Baldwin County High School, is a



Student Government Representative, a Tigerette, and was "Miss Balcoala" for 1988, among other achievements and involvement; and

WHEREAS, April Harvill is indeed an outstanding young lady whose accomplishments and community service are to be noted with praise, as is her selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Belle April Harvill of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:36 P.M.

Act No. 89-593

H.J.R. 395—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

COMMENDING AMY JOHNS OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Amy Johns on her selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as "ambassadors" for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Holmes Hendrickson, Donna Murph, Robert Scott Lewis, Toni James and Etchridge Means, Amy was selected on the basis of her academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Amy, who was Freshman Band Council Representative at Baldwin County High School, also was a band member as a freshman and sophomore, and is a Tigerette, Computer Lab Assistant, National Honor Society Secretary and a Key Club Favorite; she was the Hugh O'Brian Leadership Essay Winner, was recognized in most Outstanding High School Students of America, and is ranked in the top 20% of her graduating class, among other achievements and involvement; and

WHEREAS, Amy Johns is indeed an outstanding young lady whose accomplishments and community service are to be noted with

praise, as is her selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Belle Amy Johns of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:37 P.M.

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Act No. 89-594

H.J.R. 394—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

COMMENDING HOLMES HENDRICKSON OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Holmes Hendrickson on his selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as “ambassadors” for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Amy Johns, Donna Murph, Robert Scott Lewis, Toni James and Etchridge Means, Holmes was selected on the basis of his academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Holmes, who has lettered in four sports at Baldwin County High School, was named to the All-Tournament and All-County Basketball Teams, to the All-County and All-Region Football Teams, is a candidate for the Bryant-Jordan Achievement Scholarships for Athletes and is graduating fourth in his class of 300 students; and

WHEREAS, he also is a member of the Key club, president of both the National Honor Society and his Senior Class, and is a member of the First United Methodist Church and president of the Youth Group, among other achievements and involvement; and

WHEREAS, Holmes Hendrickson is indeed an outstanding young man whose accomplishments and community service are to be noted with praise, as is his selection by the Bay Minette Chamber of

Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Beau Holmes Hendrickson of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:38 P.M.

Act No. 89-595

H.J.R. 393—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

COMMENDING DONNA MURPH OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Donna Murph on her selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as “ambassadors” for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Amy Johns, Holmes Hendrickson, Robert Scott Lewis, Toni James and Etchridge Means, Donna was selected on the basis of her academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Donna, who is treasurer of the National Honor Society at Baldwin County High School, also is a member of the Fellowship of Christian Athletes, Key Club Favorite, Spanish Club Reporter, Computer Lab Assistant and serves on the 1988-89 Annual Staff; she further is a member of New Life Baptist Church, among other involvement and achievements; and

WHEREAS, Donna Murph is indeed an outstanding young lady whose accomplishments and community service are to be noted with praise, as is her selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly com-

mend Delta Bell Donna Murph of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:39 P.M.

Act No. 89-596

H.J.R. 392—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

COMMENDING ROBERT SCOTT LEWIS OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Robert Scott Lewis on his selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as “ambassadors” for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Amy Johns, Holmes Hendrickson, Donna Murph, Toni James and Etchridge Means, Scott was selected on the basis of his academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Scott, who is a member of the First Baptist Church, is vice president of both the National Honor Society and the Key Club at Baldwin County High School where he also is a member of the Annual Staff, the Soccer and Track Teams, and SGA; he is ranked in the Top 20 in his class, serves on the Scholars Bowl Team, is a Computer Lab Assistant and the recipient of a full four-year Army ROTC scholarship, among other achievements and involvement; and

WHEREAS, Scott Lewis is indeed an outstanding young man whose accomplishments and community service are to be noted with praise, as is his selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Beau Robert Scott Lewis of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:40 P.M.

Act No. 89-597

H.J.R. 391—Reps. McMillan and Penry

## HOUSE JOINT RESOLUTION

COMMENDING TONI JAMES OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Toni James on her selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as “ambassadors” for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Amy Johns, Holmes Hendrickson, Donna Murph, Robert Scott Lewis, and Etchridge Means, Toni was selected on the basis of her academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Toni, who was Sophomore and Junior Maid at Baldwin County High School, also is a Band member, third-year Tigerette, 1988-89 Homecoming Queen, a member of the Spanish Club and Oral Communications, and serves on the Gayfers Teen Board, among other achievements and involvement; and

WHEREAS, Toni James is indeed an outstanding young lady whose accomplishments and community service are to be noted with praise, as is her selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Belle Toni James of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:41 P.M.

Act No. 89-598

H.J.R. 390—Reps. McMillan and Penry

## HOUSE JOINT RESOLUTION

COMMENDING ETCHRIDGE MEANS OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Etchridge Means on his selection as a member of Delta Belles and Beaux, a group established by the Bay Minette Chamber of Commerce to serve as "ambassadors" for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Trey Dickson, Amy Johns, Holmes Hendrickson, Donna Murph, Robert Scott Lewis, and Toni James, Etchridge was selected on the basis of his academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Etchridge, who is a member of McGee Memorial Temple, president of Youth Fellowship and an eight-year choir member, has been ranked among the top 20% of students nationwide by the University of Alabama; he is Salutatorian for the Class of 1989 at Baldwin County High School where he also is a member of the National Honor Society, Scholars Bowl Team, BCHS Band, 1989-90 Drum Major, secretary of the Key Club and is a three-year Academic All-American, among other achievements and involvement; and

WHEREAS, Etchridge Means is indeed an outstanding young man whose accomplishments and community service are to be noted with praise, as is his selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Beau Etchridge Means of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:42 P.M.

Act No. 89-599

H.J.R. 389—Reps. McMillan and Penry

#### HOUSE JOINT RESOLUTION

COMMENDING TREY DICKSON OF BAY MINETTE, ALABAMA.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends Trey Dickson on his selection as a member of Delta Belles and Beaux, a group established by the Bay Minette

Chamber of Commerce to serve as "ambassadors" for Bay Minette and its Chamber for 1988-1989; and

WHEREAS, along with fellow Belles and Beaux April Harvill, Amy Johns, Holmes Hendrickson, Donna Murph, Robert Scott Lewis, Toni James and Etchridge Means, Trey was selected on the basis of his academic record, civic participation, ability to meet the public and school faculty recommendation; and

WHEREAS, Trey is the 1988-89 president of the Key Club at Baldwin County High School where he also is a member of the National Honor Society and is a three-year letterman in football; he is a member of the First Baptist Church and was first Runner-up in the EMC Essay Contest, among other achievements and involvement; and

WHEREAS, Trey Dickson is indeed an outstanding young man whose accomplishments and community service are to be noted with praise, as is his selection by the Bay Minette Chamber of Commerce to serve as a member of the prestigious Delta Belles and Beaux; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most highly commend Delta Beau Trey Dickson of Bay Minette, Alabama, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 5:43 P.M.

Act No. 89-600

H.J.R. 386—Reps. Kennedy, Buskey (JL),  
Clark (W) and Zoghby

#### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF EUGENE BURNIE COOKE  
OF MOBILE, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Eugene Burnie Cooke of Mobile, Alabama, and for whom eulogistical services are being held March 2, 1989; and

WHEREAS, a native of Pine Hill, Alabama, Mr. Cooke was a graduate of Arlington Academy, Annemanie, Alabama; earned the Associate degree from Bishop State College; and was awarded the B.S. degree from Alabama State University; and

WHEREAS, Mr. Cooke was a prominent Mobile businessman who, for some thirty years, was owner and operator of the Royal Living Room, a very popular nightclub that was widely known throughout the Mobile area; and

WHEREAS, he also was prominent in civic and community leadership as a member and through activities of Kappa Alpha Psi and the Elks Lodge, and was a member of the Board of Trustees of Lilly Baptist Church in Mobile; and

WHEREAS, Eugene Burnie Cooke was indeed a beloved member of the community and his loss is the source of consuming grief to his beloved family and countless friends, now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Eugene Burnie Cooke of Mobile, Alabama, and extend our very deepest sympathy to his widow, Thelma B. Cooke; his children Carolyn Cooke Rhodes and Eugene Burnie Cooke, Jr.; to his grandchildren, Calvin Anthony Cooke, Robert Anthony Rhodes, Jr., and Daniel Christopher Cooke; and to his many relatives and friends, for whom a copy of this resolution shall be provided that they all may know of our shared sorrow in their great and inconsolable loss.

Approved May 4, 1989

Time: 5:44 P.M.

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Act No. 89-601

H.J.R. 385—Rep. Moon

### HOUSE JOINT RESOLUTION

COMMENDING LILLIS IRWIN FOR DISTINGUISHED SERVICE TO THE ALABAMA PUBLIC SCHOOLS.

WHEREAS, a native of Pisgah, Alabama, Lillis Irwin attended Snead State Junior College and received both the B.S. and Master's degrees from Florence State University; and

WHEREAS, Mrs. Irwin, who is a former teacher at DAR High School, Central High School in Florence and in the Huntsville City Schools, has been at Claysville High School in Marshall County for the past 22 years; and

WHEREAS, one of our state's most outstanding educators, Mrs. Irwin, upon retirement at the close of the 1988-1989 school year, will have completed a distinguished professional tenure of 28 years in the field of education; and



WHEREAS, Mrs. Irwin, in addition to her professional duties and responsibilities, also has assumed a position of leadership and service within the community, and is a faithful and active member of the First Baptist Church of Grant; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement and service, we hereby commend Lillis Irwin, whom we hold in highest regard, and for whom a copy of this resolution shall be provided that she may know of our sincere best wishes for every happiness and success in retirement.

Approved May 4, 1989

Time: 5:45 P.M.

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Act No. 89-602

H.J.R. 384—Rep. Williams

### HOUSE JOINT RESOLUTION

CONGRATULATING SUE FARNSWORTH, OZARK, ALABAMA, RECIPIENT OF THE PAPAL MEDAL OF HONOR.

WHEREAS, Sue Farnsworth, a resident of Ozark, Alabama, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness John Paul II, which was established in 1888 as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, Sue Farnsworth, a member of Saint John's Church, has been active in her parish; she serves on the boards of the Dothan deanery and the Archdiocesan Council of Catholic Women, and has served as president of each, and has served also in other civic and charitable organizations, and her life has been faith filled in service to others for the betterment of her church and community; and

WHEREAS, Sue Farnsworth has so unselfishly given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration for others to reach out to the needs of others and her life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady Sue Farnsworth, Ozark, Alabama, for her outstanding achievements and particularly for her dedication to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. Sue Farnsworth, Ozark, Alabama, so that she may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 5:46 P.M.

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Act No. 89-603

H.J.R. 357—Rep. Payne

### HOUSE JOINT RESOLUTION

#### CONGRATULATING THE ERWIN HIGH SCHOOL FOOTBALL TEAM AS THE AREA 10 CHAMPIONS.

WHEREAS, the Legislature of Alabama, in highest commendation, notes that the Erwin High School Football team has won the Area 10 Championship; and

WHEREAS, with an incredible overall record of 10-2, the 1988 Erwin Eagles were the first team in the school's history to make the second round of the State playoffs; and

WHEREAS, averaging 26 points per game, with two impressive fourth-quarter come from behind victories over Mountain Brook and Pell City, the Eagles soared to its first 10 win season; and

WHEREAS, under the talented leadership of Head Coach Larry Farris and Assistant Coaches Hal Riddle, Johnny Metcalf, Bill Scruggs, Chris Moss, Jeff Estes, Keith Luker and Ed Franks, the team boosted performances that clearly reflected the dedication and will-to-win spirit of the ferocious Eagles; and

WHEREAS, the Erwin Eagles are All-State Dewayne Roberts, who has signed with Samford University, All-Metro Derek Weaver, who signed with the University of North Alabama and All-Metro Jason Gordon along with teammates Jon Chesser, Sean McCombs, Marty Smith, Chris Elmore, Shawn Marbut, Xavier Hunter, Robbie West, Jody Duncan, Bubba Ray, Phillip Sapp, Ethen Quarles, Kevin Moss, Chris Wilson, David Murray, Mike Coalson, Brad Condray, Jason Farris, Jay Williams, Shane McKee, Matt Winther, Chris Norman, John Totten, Keith Blanton, John Creel, Donnie Hicks, Hunter Hudson, James Burge, Scott Walker, Jay Wigley, Chris Horn, Kyle Davis, Keith Walker, Jay Bates, Sam Rich, Craig Dudley and Wallace Rutledge; and

WHEREAS, also to be praised for their support and encouragement throughout the season are cheerleaders Molly Myers, Karen

Sykes, Misi Smith, Paige Hope, Brandi Gibbs, Jennifer Wilder, Beth Sanders, Jessica Wilson, Kristi Glasscox, Jeanie Plott, Lori Robinson, Krista Thompson, Stacey Carrigan, Jennifer Wilson and Nikki Windham as well as sponsor Jeanette Mizerany; those serving as managers were Mark Reynolds, Chris Evans, Max Bender and Matt Thomas; the team statistician was Gordon Harvey; the team trainer was Mike Roberts and the team chaplain was Robbie Robison; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend and congratulate the Erwin High School Eagles and do further direct that copies of this resolution be forwarded to Principal Mike Burkett and Head Coach Larry Farris for appropriate presentation and school display.

Approved May 4, 1989

Time: 5:47 P.M.

Act No. 89-604

H.J.R. 355—Reps. Grayson, Butler, Hall,  
Sanderford, Brooks,  
Buskey (JE) and Freeman

#### HOUSE JOINT RESOLUTION

COMMENDING WILLIE MAE BUTLER OF HUNTSVILLE, ALABAMA, ON HER OUTSTANDING ACHIEVEMENTS.

WHEREAS, the Alabama Legislature has learned of the numerous and notable achievements of Willie Mae Butler, Professor of Physical Education and Recreation at Alabama A&M University, and it is with sincere regard that this body note these distinguished accomplishments; and

WHEREAS, Willie Mae Butler received her B.A. degree from Oberlin College and her M.A. degree from the University of Wisconsin at Madison and she has published or authored publications and research, on females in sports and comparative analysis, which are too numerous to list here, and her awards and many honors for professional and voluntary work with public education, special olympics at the local, state and international levels, and sports are extraordinary and have earned her the admiration and respect of those with whom she comes in contact; and

WHEREAS, Willie Mae Butler has professional listings in "The World of Who's Who of Women In Education," "Outstanding Educators of America" and "Personalities of the South" she has held

office in many academic and professional organizations and is a charter member of the National Association of Physical Education in Higher Education and Southern District; Historically Black Colleges and University (AAHPERD), and holds membership in the U.S. Olympic Committee, the National Education Association, Spelman College Alumnae Association, the John Heisman Club and many other prestigious organizations; and

WHEREAS, Willie Mae Butler has demonstrated her keen intellect and unique skills in many endeavors associated with youth, perhaps one of her most coveted honors is being the first female inducted into the Athletic Booster's Club "Sports Hall of Fame" in 1989; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Willie Mae Butler for all of her outstanding achievements and in particular for being inducted into the Athletic Booster's Club "Sports Hall of Fame" and her extraordinary service to youth and education through sports and athletics.

RESOLVED FURTHER, That a copy of this resolution be given to Willie Mae Butler so that she may know of our high regard and best wishes for all future endeavors.

Approved May 4, 1989

Time: 5:48 P.M.

Act No. 89-605

H.J.R. 350—Reps. Marietta, Gaston,  
Zoghby, Box and  
Harper

### HOUSE JOINT RESOLUTION

COMMENDING GEORGE E. DIXON FOR OUTSTANDING SERVICE TO LOCAL UNION 505, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS.

WHEREAS, the Alabama Legislature notes with commendation the distinguished tenure of George E. Dixon of Mobile as business manager-financial secretary of Local Union 505, International Brotherhood of Electrical Workers (IBEW); and

WHEREAS, we further note that Mr. Dixon's service as business manager of an IBEW Local, 1971 to his retirement in 1989, is the longest such tenure of any other in the State of Alabama; and

WHEREAS, in additional prestigious service to Local Union 505 and IBEW, George Dixon served on the Council of Industrial Relations from 1978 through 1982; was a delegate from Local Union 505 to six IBEW International Conventions; and served, in 1986, on the EWBA Resolutions Committee; and

WHEREAS, he also was elected in November 1988 to the State Democratic Committee, and in 1988 and 1992 to the county committee; and

WHEREAS, George Dixon, who was born December 14, 1923, was married on April 4, 1949, to Elouise Gregory; they are the parents of two sons and a daughter, and the grandparents of two granddaughters and three grandsons; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend George E. Dixon for outstanding service to Local Union 505, International Brotherhood of Electrical Workers, and do further direct that he receive a copy of this resolution of highest honor and regard.

Approved May 4, 1989

Time: 5:49 P.M.

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Act No. 89-606

H.J.R. 362—Reps. Ford and Colvin

### HOUSE JOINT RESOLUTION

COMMENDING PENNY MINCE OF GADSDEN, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature joins the Gadsden community in congratulating Penny Mince as the recipient of an all-expense paid trip to attend a special week-long Congressional Seminar in Washington, D. C.; and

WHEREAS, Penny, who was sponsored by the Gadsden Linde Division of Union Carbide, was selected from among six finalists for her essay and oral presentation, "Rights and Responsibilities of American Citizens," will join other high school juniors from throughout the nation, as guests of Union Carbide, to participate in this fine program administered by the Washington Workshops Foundation; and

WHEREAS, Penny, the daughter of Mr. and Mrs. Durwood Mince, is a student at Litchfield High School where she is a member of Pi Delta Phi Sorority and F.B.L.A., among other academic and extracurricular involvements; and

WHEREAS, Penny Mince is indeed one of Gadsden's and our State's most outstanding young citizens and it is our great pleasure to commend her on her accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Miss Penny Mince of Gadsden, Alabama, and do further direct that she be presented with a copy of this resolution of highest honor and esteem.

Approved May 4, 1989

Time: 5:50 P.M.

Act No. 89-607

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H.J.R. 344—Reps. Kennedy, Harper, Zoghby, Turner, Gaston, Kvalheim, Buskey (JE), Box, Clark (W), Marietta, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Knight, Laird, Layson, Lindsey, Logan, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Moon, Newman, Newton (C), Newton (D), Parker, Payne, Penry, Perdue, Petelos, Poole, Rains, Richardson, Rogers, Sanderford, Seibels, Slaughter, Spratt, Starkey, Thomas, Turnham, Venable, Walker, Warren, White (F), White (G),

White (L), Williams, Willis and  
Wright

## HOUSE JOINT RESOLUTION

### MOURNING THE DEATH OF GLADYS MOUTON COOPER OF MOBILE, ALABAMA.

WHEREAS, in sentiment of great sorrow, the Legislature of Alabama records the lamentable death of Gladys Mouton Cooper of Mobile, Alabama, on April 1, 1989; and

WHEREAS, a prominent Mobile civic leader, Mrs. Cooper was prompted, through sincere care and concern for others, to become involved in matters of great consequence to her community; and

WHEREAS, Mrs. Cooper, in 1969, founded Culture in Black and White for the purpose of bringing together a racially mixed group of children, primarily the poor and needy, and thereby initiated a program to provide training in the arts and help reduce the barriers of segregation; and

WHEREAS, we further note the magnificent success of the Culture in Black and White program which has enrolled and lovingly nurtured thousands of young children, many of whom have gone on to rewarding professional careers; and

WHEREAS, Gladys Cooper also was a member of the Mobile Arts Council, a distinguished recipient of the Governor's Award of the Alabama State Council on the Arts, and was named Woman of the Year by the coalition of 100 Black Women; and

WHEREAS, a native of Lafayette, Louisiana, and a graduate of Hampton Institute, Mrs. Cooper was a devout Catholic and the initiator of the Blue Army of Prince of Peace; and

WHEREAS, preceded in death by one of six children, Mrs. Gladys Cooper is survived by her son, Major General Gary Cooper, United States Marine Corps, who is our former colleague in the Alabama House of Representatives and former Commissioner of the State Department of Human Resources; also by her sons A. J. Cooper, Dominic Cooper and Mario Cooper; by her daughter, Peggy Cooper Cafritz; and other family members and friends, all of whom are sorely bereft in their great and grievous loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn her death, we give thanks for the life of Gladys Mouton Cooper of Mobile, Alabama, and extend our very deepest sympathy

to all her family, whose sorrow we share and for whom copies of this resolution of heartfelt condolence shall be provided.

Approved May 4, 1989

Time: 5:51 P.M.

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Act No. 89-608

H.J.R. 341—Rep. Johnson (RG)

### HOUSE JOINT RESOLUTION

DESIGNATING A PORTION OF HIGHWAY 76 AS THE  
“DESOTO CAVERNS PARKWAY.”

WHEREAS, The Heritage Committee in Childersburg, Alabama, has expressed the desire that a portion of Alabama Highway 76 in Talladega County be designated as the “DeSoto Caverns Parkway”; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consensus with and support of the desire of The Heritage Committee, we hereby name and designate that portion of Alabama Highway 76 in Talladega County, from its point of intersection with U.S. Highway 280 at Childersburg, east to its intersection with Alabama highway 21 at the Town of Winterboro, as the “DeSoto Caverns Parkway.”

BE IT FURTHER RESOLVED, That the State Highway Department is herein authorized to erect and maintain appropriate signs and markers so designating said portion of Alabama Highway 76 as the “DeSoto Caverns Parkway.”

RESOLVED FURTHER, That copies of this resolution be forwarded to The Heritage Committee in Childersburg and to the State Highway Department.

Approved May 4, 1989

Time: 5:52 P.M.

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Act No. 89-609

H.J.R. 340—Reps. Campbell and Kennedy

### HOUSE JOINT RESOLUTION

RECOGNIZING, WITH COMMENDATION, JUNE 2, 1989,  
AS “LETTER CARRIER DAY” IN ALABAMA.



WHEREAS, the National Association of Letter Carriers was founded August 30, 1889, in Milwaukee, Wisconsin, by a group of letter carriers dedicated to improving wages, working conditions and job security for America's letter carriers; and

WHEREAS, the National Association of Letter Carriers and the United States Postal Service, working in partnership, have produced a mail delivery service that is one of the most efficient in the world; and

WHEREAS, in celebration of the centennial year of the National Association of Letter Carriers, a 37,654-mile journey began on March 2, 1989, in Washington, D.C. for the purpose of delivering a symbolic, giant envelope that will be postmarked in each of the fifty states and Puerto Rico; the envelope, which will arrive in Milwaukee on August 23rd to be postmarked, will be delivered to the celebration site on August 30, 1989, the 100th Anniversary of the Association's founding; and

WHEREAS, the "Red Letter" day in Alabama, however, is June 2, 1989, when the giant envelope will arrive in Birmingham to be postmarked and forwarded to its next destination; and

WHEREAS, June 2, 1989, which has been proclaimed "Letter Carrier Day" in Alabama, is indeed a significant occasion and one which calls for a special celebration with appropriate ceremony; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the National Association of Letter Carriers and its membership, and do further recognize June 2, 1989, as "Letter Carrier Day" in Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for presentation on this significant occasion.

Approved May 4, 1989

Time: 5:53 P.M.

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Act No. 89-610

H.J.R. 337—Rep. Rogers

# HOUSE JOINT RESOLUTION

COMMENDING DAVID BISHOP, OUTSTANDING DISABLED VOLUNTEER.

WHEREAS, David Bishop, a resident of Montgomery and an outstanding volunteer, has been a dedicated volunteer in helping others in spite of his own disabilities; and

WHEREAS, David Bishop has used his time, talents and energies in volunteer service for the Alabama Office of Voluntary Citizen Participation, a division of the State Commission on Aging, the Red Cross, and other charitable and civic organizations; and

WHEREAS, David Bishop is exemplary in his courage and dedicated service for the betterment of others and his care and concern for others have touched the lives of many; and

WHEREAS, the dedication and spirit in service to others who are disabled or disadvantaged is volunteerism at its finest; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby highly commend David Bishop as an outstanding disabled volunteer and recommend that others follow in his giant footprints of care and concern for others.

BE IT FURTHER RESOLVED, That we do direct that a copy of this resolution be sent to David Bishop so that he may know of our high praise.

Approved May 4, 1989

Time: 5:54 P.M.

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Act No. 89-611

H.J.R. 336—Rep. Bugg

### HOUSE JOINT RESOLUTION

COMMENDING EMILY PUTNAM OF AUBURN, ALABAMA, "FOCUS ON ANIMALS" VIDEO CO-PRODUCER AND DEVELOPER.

WHEREAS, the Alabama Legislature notes that Emily Putnam, while a third grader at Vestavia Hills Elementary-Central School in the Vestavia Hills enrichment program of Audrey Wilson, enrichment resource teacher, co-developed and co-produced a slide presentation focusing on responsible pet ownership, the humane treatment of animals and the benefits of the spaying and neutering of pets; and

WHEREAS, the slide presentation has been produced into a video for the "Focus On Animals" program and is now used nationally

through the national video and film catalog for schools and libraries; and

WHEREAS, Emily Putnam and her co-producer spent almost one year organizing, researching their subject and taking slides, writing their script and assembling their presentation and it is the first program of Focus on Animals by children and for children; and

WHEREAS, the creativity, perseverance and problem solving abilities of Emily Putnam are extraordinary and she is instrumental in consciousness-raising about identifying problems and the importance of spaying and neutering pets; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend Emily Putnam for her outstanding achievement in the enrichment program and in her special production focusing on the humane animal treatment.

RESOLVED FURTHER, That a copy of this resolution be sent to Ms. Emily Putnam so that she may know of our high praise and best wishes for her many future successes.

Approved May 4, 1989

Time: 5:55 P.M.

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Act No. 89-612

H.J.R. 335—Rep. Bugg

### HOUSE JOINT RESOLUTION

COMMENDING MRS. ANNE FORD CASE OF JACKSONVILLE, ALABAMA.

WHEREAS, it is with a sense of great pride that the Alabama Legislature notes the recent selection of Mrs. Anne Ford Case as Calhoun County's Elementary Teacher of the Year; and

WHEREAS, a teacher for the past 23 years, Mrs. Case is indeed a thoroughly knowledgeable professional whose credentials are exemplary, and she has continued to strengthen her qualifications through participation in a number of seminars, workshops, and other advanced training sessions; and

WHEREAS, in the classroom, Mrs. Case's first concern is for the individual needs of her students and her total efforts are dedicated to their growth and maturation through knowledge; and

WHEREAS, she further extends her dedication to include support of all school activities, and actively seeks the support of parents and

community for the school in an effort to continually improve the overall quality of education for the entire student body; and

WHEREAS, among her numerous distinctions and awards, she was Alabama's Community Ambassador to Spain, has been nominated to the Teacher Hall of Fame and as Alabama's Teacher of the Year; she has recently attended the Effective School Program Workshop in Jackson, Mississippi; and

WHEREAS, we join with faculty, staff, students and parents of Saks Elementary School in Anniston in commending Mrs. Anne Ford Case as Calhoun County's Elementary Teacher of the Year and further express support of her candidacy for state and national honors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES CONCURRING That in recognition of outstanding professional achievement and contributions in the educational field and community leadership, we hereby most highly praise Anne Ford Case of Jacksonville, Alabama, to whom we are deeply grateful and for whom a copy of this resolution shall be provided.

Approved May 4, 1989

Time: 5:56 P.M.

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Act No. 89-613

H.J.R. 334—Rep. Breedlove

### HOUSE JOINT RESOLUTION

COMMENDING CLARKE COUNTY HIGH SCHOOL, OUR STATE 4A BASKETBALL CHAMPIONS.

WHEREAS, the Legislature of Alabama extends heartiest congratulations to the Clarke County High School Bulldogs, our 1989 State Basketball Champions in Class 4A by virtue of a solid 75-59 victory over the Abbeville Yellow Jackets in the finals; and

WHEREAS, under Head Coach Johnny Mitchell, the Clarke County Bulldogs began their bid for the State Title with a close 50-49 win over Sheffield in the opening game of the tournament; and

WHEREAS, the Bulldogs then polished off top-ranked and defending State Champion, Sumter County of York, with a runaway 74-61 trouncing to earn a berth in the finals; and

WHEREAS, the Clarke County Bulldogs, who finished the season with a 28-3 record and the State Crown, are Rodney Barganier (All-Tournament and MVP), Cedric Fuller (All-Tournament), Michael

Frazier (All-Tournament), and teammates Clarence Williams, Robert Wright, Brent Fuller, Bobby Wilson, Thaddeus Raine, Kenneth Robinson, Cedric Chapman, Eric Horn, Aaron Owens, Anthony Mitchell and DeCarlos Chapman; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Coach Johnny Mitchell and his Clarke County Bulldogs on the 1989 State Class 4A Basketball Championship, and do further direct that copies of this resolution be forwarded to Coach Mitchell for appropriate presentation and school display.

Approved May 4, 1989

Time: 5:57 P.M.

Act No. 89-614

H.J.R. 332—Rep. Hooper

### HOUSE JOINT RESOLUTION

#### HONORING MONTGOMERY'S WOMEN OF ACHIEVEMENT.

WHEREAS, the Legislature of Alabama notes with highest commendation The Montgomery Advertiser and The Alabama Journal "Women of Achievement," who have been recognized for outstanding service to the Montgomery community; and

WHEREAS, cited for laudable volunteerism and leadership were Dorothy Altheimer, Mary Katherine Blount, Margaret Britton, Cheryl Carter, Margaret Elmore, Henrietta Hubbard, Mary George Jester, Laura Lockett, Kay Miller, Louise Sizemore, and the late Estelle Popkin; and

WHEREAS, not only have these distinguished ladies worked tirelessly and willingly to the betterment of the community but, through example, have inspired others to join them in assuming the responsibilities of good citizenship; and

WHEREAS, the organizations and agencies these dedicated and diligent women have served are grateful for their contributions and we are mindful, as we commend them, that in private decency and public spirit, they are exemplars of virtuous self-sacrifice on behalf of others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most

highly commend the Montgomery Women of Achievement, Dorothy Altheimer, Mary Katherine Blount, Margaret Britton, Cheryl Carter, Margaret Elmore, Henrietta Hubbard, Mary George Jester, Laura Luckett, Kay Miller and Louise Sizemore, each of whom shall receive a copy of this resolution of sincere praise and esteem.

BE IT FURTHER RESOLVED, That a copy of this resolution of honor also be provided for the family of the late Estelle Popkin.

Approved May 4, 1989

Time: 5:58 P.M.

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Act No. 89-615

H.J.R. 331—Reps. Butler, Freeman,  
Grayson, Sanderford,  
Hall and Brooks

### HOUSE JOINT RESOLUTION

COMMENDING BENJAMIN B. GRAVES FOR DISTINGUISHED SERVICE TO THE UNIVERSITY OF ALABAMA IN HUNTSVILLE.

WHEREAS, in highest honor and esteem, the Legislature of Alabama notes the invaluable service rendered by Benjamin Barnes Graves as a professor and as president of the University of Alabama in Huntsville; and

WHEREAS, a graduate of the University of Mississippi with the BA degree, Benjamin Graves received his MBA from Harvard Business School and his Ph.D. from Louisiana State University; and

WHEREAS, Dr. Graves, who served from 1947 to 1960 in staff and management positions with the Exxon Company, has also served on the faculties of Louisiana State University, the University of Virginia, University of Mississippi, and the University of Alabama in Huntsville, since 1978, as the University's first professor in the field of management; and

WHEREAS, he further served as president of Millsaps College for the five years prior to his position as the first president of the University of Alabama in Huntsville; and

WHEREAS, during Dr. Graves' distinguished tenure as president of UAH (1969-1978), the university's enrollment grew from 2,535 to 4,205 students, while the number of degree programs expanded from 16 to 39; the square footage of campus buildings more than doubled, through new construction and additions, and accreditations were

obtained from Southern Association of Colleges and Schools, ABET, National Schools of Nursing and the American Medical Association; and

WHEREAS, attesting to Dr. Graves' impeccable credentials and his distinguished professional service and achievement are his inclusions in such prestigious publications as "The Blue Book", Who's Who in American College and University Administration", "Biographical Encyclopedia of the United States", "Who's Who in the South and Southwest", and "Who's Who in America"; and

WHEREAS, Benjamin Barnes Graves is indeed one of Alabama's most eminent educators, and we are grateful for his service to the University of Alabama in Huntsville for the past 21 years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement and service to the University of Alabama in Huntsville, we hereby most highly commend Dr. Benjamin B. Graves, whom we hold in warmest personal regard and to whom a copy of this resolution shall be presented.

BE IT FURTHER RESOLVED, That we sincerely wish for Dr. Graves continuing success in all future endeavors, following his retirement from UAH in June 1989.

Approved May 4, 1989

Time: 5:59 P.M.

Act No. 89-616

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H.J.R. 470—Reps. Butler, Freeman, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan,

Holley, Holmes, Hooper,  
 Johnson (RG), Johnson (RW),  
 Kennedy, Knight, Kvalheim,  
 Laird, Layson, Lindsey,  
 Logan, Marietta, Marks,  
 Mathis, McClain, McDowell,  
 McKee, McMillan, Melton,  
 Mikell, Moon, Newman,  
 Newton (C), Newton (D),  
 Parker, Payne, Penry, Perdue,  
 Petelos, Poole, Rains,  
 Richardson, Rogers,  
 Sanderford, Seibels, Slaughter,  
 Spratt, Starkey, Thomas,  
 Turner, Turnham, Venable,  
 Walker, Warren, White (F),  
 White (G), White (L),  
 Williams, Willis, Wright  
 and Zoghby

## HOUSE JOINT RESOLUTION

### COMMENDING THE FORMATION OF THE HELEN KELLER EYE RESEARCH FOUNDATION.

WHEREAS, blindness and vision loss annually cost the American people incalculable hardship and an estimated \$14 billion; and

WHEREAS, blindness is the most feared of all disabilities in polls of the American public; and

WHEREAS, eye research represents our hope of conquering this affliction; and

WHEREAS, Helen Keller is Alabama's most honored citizen; and

WHEREAS, Winston Churchill called Helen Keller the greatest woman of the twentieth century; and

WHEREAS, her name is synonymous with courage against blindness worldwide; and

WHEREAS, Helen Keller's life represents a potential legacy of worldwide goodwill for her home state of Alabama; and

WHEREAS, eye research represents an exciting step forward into the future for Alabama; and

WHEREAS, Alabama recognizes research and education based on it to be the future hope of our state; and



WHEREAS, Alabama scientists, physicians, and interested citizens have, during 1988, formed the Helen Keller Eye Research Foundation, to honor her name, to unify eye research in Alabama, and to promote eye research worldwide; and

WHEREAS, the Foundation has attracted scientific participants, including Nobel Laureates and members of the National Academy of Science from Alabama, the nation, and the world; and

WHEREAS, three generations of Helen Keller's family, including her niece, Patty Tyson Johnson, enthusiastically endorse the research foundation; and

WHEREAS, the Helen Keller Festival will occur in her birthplace of Tuscumbia, Alabama, in June, 1989, honoring the 109th year of her birth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby encourage the Honorable Guy Hunt, Governor of the State of Alabama, and all elected officials, to attend the Helen Keller Festival, and to announce to the state, the nation, and to the world, the formation of the Helen Keller Eye Research Foundation in her home state, and we encourage Alabama leaders and all citizens to recognize this event which will be significant in the history of our state.

Approved May 4, 1989

Time: 6:00 P.M.

Act No. 89-617

H.J.R. 466—Reps. Clark (W), Buskey (JE)  
and Kennedy

### HOUSE JOINT RESOLUTION

CONGRATULATING MRS. MINNIE TURNBO OF WHISTLER, ALABAMA, ON THE OCCASION OF HER 108TH BIRTHDAY.

WHEREAS, it is with great pleasure that the Legislature of Alabama congratulates Mrs. Minnie Turnbo of Whistler, Alabama, on her 108th birthday, May 10, 1989; and

WHEREAS, Mrs. Turnbo, who was born on May 10, 1881, in Maplesville, Chilton County, Alabama, is the mother of twelve children, three of whom are deceased; and

WHEREAS, Mrs. Turnbo, who is a beloved member of her community and an active member of the Prichard Housing Authority

Senior Choir, visits the sick on a daily basis and is active in many other endeavors; and

WHEREAS, she has received citations from the President of the United States, the City of Prichard and the State of Alabama in honor of her longevity and wishing her continuing good health, happiness and joy; and

WHEREAS, Mrs. Minnie Turnbo attributes her longevity to praising God on a daily basis, having a pleasant attitude and believing that everyone is equal; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join family and friends of Mrs. Minnie Turnbo of Whistler, Alabama, in extending heartiest congratulations on her 108th birthday and direct that she and other family members receive copies of this resolution in token of our sincere regard and warm best wishes for the future.

Approved May 4, 1989

Time: 6:01 P.M.

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Act No. 89-618

H.J.R. 463—Rep. Rogers

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DR. HERMAN STONE OF BIRMINGHAM, ALABAMA.

WHEREAS, it is with deep sorrow and regret that the Alabama Legislature records the death of Dr. Herman Stone, Pastor Emeritus of New Hope Baptist Church, Birmingham, Alabama, on April 12, 1989, at the age of 84 years; and

WHEREAS, Dr. Stone was educated in the Georgia School System, attended Morehouse College, Atlanta, Georgia, and attended several theological seminaries and received the Doctor of Divinity Degree; and

WHEREAS, he gave his life to God at an early age and joined Greater Springfield Baptist Church, Atlanta, Georgia, prior to accepting the Pastorship of New Hope Baptist Church, Birmingham, Alabama, in May 1946, where he served for forty years and was Pastor Emeritus until his death; and

WHEREAS, as Pastor of New Hope Baptist Church, Dr. Stone allowed the church to become a launching pad for many politicians and public figures, and opened the doors of the church to the

community, city, state and nation to be used for graduations, public meetings, civil rights meetings, weddings, funerals, etc.; and

WHEREAS, Dr. Stone was a lover of people, especially children and young people, and a dedicated minister not only to his parishioners, but to anyone seeking help; and

WHEREAS, he was active in many civic activities including the civil rights movement in Birmingham, Alabama, the National Baptist Convention U.S.A., Inc., and the Mount Pilgrim District Association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do deeply regret and grievously mourn the death of Dr. Herman Stone, and extend our sincere sympathy to his family.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to his widow, Mrs. Lucille Rogers Stone, that she may know of our shared sorrow in her great loss.

Approved May 4, 1989

Time: 6:02 P.M.

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Act No. 89-619

H.J.R. 460—Rep. Turnham

### HOUSE JOINT RESOLUTION

CONGRATULATING W. HAROLD GRANT, PH.D., AUBURN, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Dr. W. Harold Grant, a resident of Auburn, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Dr. W. Harold Grant, is an active member of Saint Michael Parish, Auburn, Alabama, and he has served in many positions in organizations and boards of his Church; he is a lay leader and has distinguished himself as an educator, his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Dr. W. Harold Grant of Auburn, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Dr. W. Harold Grant, Auburn, Alabama, by the Clerk of the House, so that he and his family may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 6:03 P.M.

Act No. 89-620

H.J.R. 458—Reps. Kvalheim, Box, Gaston, Zoghby, Buskey (JE), Hooper, Marietta, Turner, McMillan and Penry

#### HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF SOUTH ALABAMA JAGUAR BASKETBALL TEAM FOR THEIR OUTSTANDING SEASON.

WHEREAS, the University of South Alabama finished its 1989 basketball season with a record of 23 and 9; and

WHEREAS, the Jaguars of South Alabama finished number one in the Sunbelt Conference during regular season play and went on to win the Sunbelt Conference Tournament by defeating Jacksonville in the championship game by a score of 105 to 59; and

WHEREAS, Ronnie Arrow's Jaguars placed three players on the all tournament team, along with the Most Valuable Player; and

WHEREAS, as a team, the Jaguars established eight new records, including margin of victory in a championship game, most points in a game and tournament, most points in a half, most field goals in a game and tournament, most assists in a game and tournament, and best 3-point field goal percentage in a tournament; and

WHEREAS, the Jaguars won its first NCAA post season game with an 86-84 thriller over the University of Alabama; and

WHEREAS, the Jaguars went on to represent the State of Alabama in the second round of the NCAA Tournament in a hard-fought game against eventual national champions Michigan; and

WHEREAS, the South Alabama Jaguar basketball team has brought much pride to Alabama, the University of South Alabama and the Mobile community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the outstanding accomplishments of the University of South Alabama basketball team, and in honor of their winning attitude, we hereby most highly commend Coach Ronnie Arrow and the 1989 Jaguar basketball team, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 6:04 P.M.

Act No. 89-621

H.J.R. 457—Reps. Kvalheim, Box, Gaston,  
Zoghby, Buskey (JE), Hooper,  
Marietta, Turner, McMillan  
and Penry

### HOUSE JOINT RESOLUTION

COMMENDING COACH RONNIE ARROW FOR OUTSTANDING ACCOMPLISHMENTS AS HEAD COACH OF THE UNIVERSITY OF SOUTH ALABAMA BASKETBALL TEAM.

WHEREAS, Coach Ronnie Arrow, in his second season as head coach of the South Alabama Jaguar basketball team, guided the Jaguars to their first ever Sunbelt Tournament Championship and automatic bid to the NCAA Tournament; and

WHEREAS, Coach Arrow was named Sunbelt Conference Coach of the Year; and

WHEREAS, the South Alabama Jaguars finished the 1989 season with a record of 23 and 9 overall, finishing 23rd in the nation in the final USA Today Power rankings; and

WHEREAS, Coach Arrow led his team to its first ever NCAA post season victory with its 86-84 thriller over the University of Alabama; and

WHEREAS, Coach Arrow has displayed professionalism and positive leadership to his players and instilled in them a desire to achieve greatness; and

WHEREAS, Coach Arrow has brought great pride to the University of South Alabama, the community of Mobile and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his outstanding achievements and in honor of the prestige he has brought to his school and to the State of Alabama, we hereby most highly commend Coach Ronnie Arrow, to whom a copy of this resolution shall be presented.

Approved May 4, 1989

Time: 6:05 P.M.

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Act No. 89-622

H.J.R. 453—Rep. Perdue

### HOUSE JOINT RESOLUTION

COMMENDING DAMON DIXON FOR OUTSTANDING ATHLETIC AND ACADEMIC ACHIEVEMENT.

WHEREAS, the Legislature of Alabama, in highest honor and esteem, congratulates Damon Dixon, the Atlanta Journal-Constitution selection as men's Player of the Year in Georgia's state college division; and

WHEREAS, Damon Dixon, of Oklahoma City, Oklahoma, who attends Morehouse College on an academic scholarship, is a six-foot-four senior guard for the Maroon Tigers who has started for the Morehouse cagers since midway through his freshman year; and

WHEREAS, proving invaluable to the Tigers, Damon Dixon, this past season helped lead Morehouse to a 24-5 record and a share of the Southern Intercollegiate Athletic Conference regular season championship; and

WHEREAS, in addition to his prowess on the court, however, Damon Dixon is an outstanding scholar who achieved an incredible 3.7 high school GPA and scored above 1100 on the Scholastic Aptitude Test; at Morehouse, as a biology major and pre-med student, he carries a current 3.2 GPA and has been accepted by a number of medical schools, including Oklahoma and Kansas; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, both as an athlete and scholar, we hereby commend Damon Dixon of Morehouse College, whom we hold in highest regard and to whom a copy of this resolution shall be forwarded.

Approved May 4, 1989

Time: 6:06 P.M.

Act No. 89-623

H.J.R. 440—Rep. Rains

## HOUSE JOINT RESOLUTION

## MOURNING THE DEATH OF CLARENCE COLEMAN HARRIS OF ALBERTVILLE, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Clarence Coleman Harris of Albertville, Alabama, on April 2, 1989, at the age of 78 years; and

WHEREAS, a prominent agri-businessman in Alabama, Mr. Harris was an organizational force and charter member of the Alabama Pork Producers Association, was the initial President of the Sand Mountain Feeder Pig Association, the first such association in the State and one that he organized; he served as a member of the DeKalb County Pork Committee for twenty years and as a member of the Dekalb County Farmers Federation Board; and

WHEREAS, Mr. Harris was a dedicated Mason, belonging to Martin Lodge No. 869 of New Harmony and was Worshipful Master from 1953 to 1954; he belonged to the Order of the Eastern Star of Bertha Martin Chapter No. 496 where he has served as Worthy Patron; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; and

WHEREAS, a devoted member and deacon of New Harmony Baptist Church, Mr. Harris gained the respect and fond feelings of those who know him whether friend or mere acquaintance; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Clarence Coleman Harris of Albertville, Alabama, and extend sincere and deepest sympathy to his wife of fifty-one years, Edna Mae Harris; his three sons, Donald, Jerry L. and Marlon Harris; his daughter, Bobbie Nell; his step-mother, Luna Harris; his six grandchildren, four great-grandchildren and one great-great-grandchild, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved May 4, 1989

Time: 6:07 P.M.

Act No. 89-624

H.J.R. 438—Rep. McKee

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM RAYNES JONES  
OF MONTGOMERY, ALABAMA.

WHEREAS, in sentiment of great sorrow, the Legislature of Alabama records the lamentable death of William Raynes Jones of Montgomery, Alabama, on April 13, 1989, at the age of 75 years; and

WHEREAS, a prominent Alabama law enforcement official and a U. S. Navy veteran of World War II, Mr. Jones began his career as a deputy sheriff in Jackson County in 1946; and

WHEREAS, Mr. Jones attended the F.B.I. National Academy in 1947, and, upon graduation from the Academy, joined the Highway Patrol Division (now the State Trooper Division) of the Alabama Department of Public Safety; and

WHEREAS, rising rapidly in rank and in positions of increasing responsibility and leadership, Mr. Jones served as assistant director of the department during the administration of Governor John Patterson and thereafter, and until retirement, served as a major in charge of the Investigative Division of the Department of Public Safety; and

WHEREAS, Major Jones, following retirement from the state, served for a short period of time as Public Safety Director for the City of Anniston; and

WHEREAS, in addition to the responsibilities of his career, Major Jones was professionally active as a member of the F.B.I. National Academy Associates, and as a member and former president of the Alabama Peace Officers Association; he also was a Mason and an Episcopalian; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life of William Raynes Jones of Montgomery, Alabama, and do further direct that a copy of this resolution be forwarded to his daughter, Mary E. McLain; son, William R. Jones, Jr.; and to other family members that they all may know of our concern for them, and that we sincerely share the sorrow of their great and grievous loss.

Approved May 4, 1989

Time: 6:08 P.M.



Act No. 89-625

H.J.R. 437—Rep. Zoghby

## HOUSE JOINT RESOLUTION

CONGRATULATING MICHELE KILCULLEN COODY,  
MONTGOMERY, ALABAMA, RECIPIENT OF THE PAPAL  
MEDAL OF HONOR.

WHEREAS, Michele Kilcullen Coody, a native of Mobile, Alabama, and a resident of Montgomery for 13 years, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness John Paul II, which was established in 1888 as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, Michele Coody, a member of St. Bede Catholic Parish, has been active in her church and community; she serves on the boards of the Montgomery Deanery and the Archdiocesan Council of Catholic Women, and Seton Haven Management Board; she has served as President of the Montgoemry Deanery, the Archdiocesan Council of Catholic Women, St. Bede school PTO and School Board; and she has been an officer and Board member of St. Margaret's Pink Ladies, the Montgoemry Museum of Fine Arts Association; and her life has been faith filled in service to others for the betterment of her church and community; and

WHEREAS, Michele Coody has given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration for others to reach out to the needs of others and her family life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady Michele Coody, Montgomery, Alabama, for her outstanding achievements and particularly for her dedication to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. Charles Coody, Montgomery, Alabama, so that she and her family may know of our high esteem and deep appreciation.

Approved May 4, 1989

Time: 6:09 P.M.

Act No. 89-626

S.J.R. 207—Senator Ellis

## SENATE JOINT RESOLUTION

NAMING THE VOCATIONAL EDUCATION BUILDING AT MONTEVALLO HIGH SCHOOL, MONTEVALLO, ALABAMA, IN HONOR OF MELTON D. "MOON" THORNTON.

WHEREAS, as a professional teacher of Vocational Agriculture for forty-one and one-half years, Melton D. "Moon" Thornton has devoted his life to education and counseling young people; and

WHEREAS, Mr. Thornton developed a model program of vocational agriculture at Montevallo High School where he was the first teacher of vocational agriculture to occupy and use the school's vocational education building; and

WHEREAS, the City of Montevallo donated the money to purchase the land on which the vocational education building was built and now stands, and Mr. Thornton taught in this building until his retirement in 1975; and

WHEREAS, Mr. Thornton served in numerous educational and leadership capacities throughout Alabama and served as president of the Lauderdale County Teachers Association, Shelby County Teachers Association, Alabama Vocational Association and the Alabama Agriculture Teachers Association; and

WHEREAS, Mr. Thornton also is the recipient of a number of honors and recognitions including the Thor Research Certificate of Merit and the Outstanding Agribusiness Teacher Award; and

WHEREAS, Mr. Thornton's untiring devotion to vocational education has brought favorable statewide attention to the Montevallo area, and it is therefore the desire of the Montevallo City Council that the vocational education building at Montevallo High School be named in honor of Melton D. "Moon" Thornton; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and recognition of outstanding service and contributions to vocational education, and in particular gratitude for his loyal and lengthy tenure as teacher of Vocational Agriculture at Montevallo High School, we hereby name and designate the vocational education building at Montevallo High School, Montevallo, Alabama, as the "Melton D. 'Moon' Thornton Building."

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers so identifying the "Melton D. 'Moon' Thornton Building."

RESOLVED FURTHER, That Mr. Thornton receive a copy of this resolution as a memento of this honorary designation of the Legislature.

Approved May 5, 1989

Time: 4:00 P.M.

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Act No. 89-627

H.J.R. 354—Reps. Hooper and Cosby

HOUSE JOINT RESOLUTION

DESIGNATING "MANAGEMENT WEEK IN ALABAMA."

WHEREAS, the week commencing June 5, 1989, has been designated by the National Management Association as Management Week; and

WHEREAS, the National Management Association is an organization committed to the promotion of the free enterprise system, management as a distinct profession, and the certification of managers; and

WHEREAS, in the past, the management profession has significantly contributed to the strength and vitality of this country's economy, and in the future such skills will be particularly essential as we strive to strengthen and revitalize the economy of the State of Alabama; and

WHEREAS, the twenty Alabama Chapters of the National Management Association, with approximately 5,000 members, will join with other managers nationwide to honor the role and achievements of managers in our society during Management Week; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby designate the week commencing June 5, 1989, as Management Week in Alabama, and call upon the citizenry to recognize and participate in the observance of this worthy occasion.

Approved May 5, 1989

Time: 12:30 P.M.

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Act No. 89-628

H.J.R. 312—Reps. Beers and Biddle

HOUSE JOINT RESOLUTION

URGING THE SWIFT EXTRADITION OF CONVICTED FELON, WILLIAM SCHANK.

WHEREAS, the Alabama Legislature notes that William Schank was legally convicted of the 1975 savage murder of a one year old baby girl and sentenced to life imprisonment and also he was serving time for an unrelated burglary conviction and in 1982 through a ministerial error, unintentionally was released from the murder conviction rather than the prior, unrelated burglary conviction; and

WHEREAS, the Legislature notes that the erroneous release of William Schank was without intention and authority and he continued in the constructive jurisdiction and confinement by proper authorities and his departure from that jurisdiction and control makes him a fugitive from justice and free to return to this State to inflict injury and harm upon our citizens and the families of the slain baby are fearful for their lives; and he is a threat to the citizens of Chautauqua County, New York as well; and

WHEREAS, two governors of this State and the attorney general have repeatedly, since 1982, filed for extradition but the Chautauqua County, New York officials, particularly the county district attorney and the presiding judge of the proceedings have denied such extradition, and the Chautauqua County district attorney allegedly took six years to properly file the appropriate legal documents to appeal the judge's refusal to extradite convicted murderer William Schank; and

WHEREAS, the six-year delay in the extradition proceedings caused a five-judge court of appeals panel to state the New York Chautauqua County district attorney had abandoned the appeal and the convicted murderer is free to stalk our streets and harm our society; and

WHEREAS, the Alabama Legislature notes that Governor Mario Cuomo has approved the extradition of William Schank in the past and his office apparently supports such return; and

WHEREAS, Alabama officials are powerless to act because only the New York officials and the convicted felon have standing for the extradition proceedings, and only the New York officials have control of the return of William Schank to serve the legally imposed Alabama life term for the heinous infant murder, and to keep others safe from his repeated criminal acts in this state, it is apparent to this Legislature that the only recourse is to remove the New York jurisdiction from Chautauqua County, New York to one of the adjacent counties so that unbiased and competent officials can fulfill the charge of the United States Constitution, Article IV, Section 2, to return felons found in another state upon the demand of the executive authority of the state where charged and be removed to the state having jurisdiction of the crime, as has been directed by Governor Mario Cuomo and his staff; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body and our citizens are outraged at the travesty of justice that has resulted in the repeated administrative obstacles that have caused the blatant disregard of the United States Constitution and the gross miscarriage of justice in the Schank proceedings.

RESOLVED FURTHER, That we do most strongly urge that Governor Mario Cuomo use every power and means at his disposal to remove the venue of the Schank extradition to another county because of the reprehensible and uncooperative conduct of the Chautauqua County, New York officials and their total disregard for the standard extradition processes honored by agreement developed between the states.

BE IT FURTHER RESOLVED, That this body does urgently request the swift return to this State of the convicted infant murderer, William Schank and that copies of this resolution be presented forthwith to the Honorable Mario Cuomo.

Approved May 5, 1989

Time: 12:31 P.M.

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Act No. 89-629

H. 965—Reps. Higginbotham and  
Turnham

### AN ACT

Relating to Lee County; providing that the Lee County Commission shall be authorized to levy sales and use taxes outside the corporate limits of the Cities of Auburn and Opelika generally paralleling the state sales and use taxes but limited in amount as set out herein, with the same exemptions and exclusions; providing for the collection of such tax by the State Department of Revenue; providing for the distribution and use of the proceeds; and repealing Act No. 88-400, H. 886, 1988 Regular Session.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only to Lee County in those areas outside the corporate limits of the Cities of Auburn and Opelika.

**Section 2.** In order to provide funds for the benefit of Lee County, the Lee County Commission is hereby authorized to levy and to provide for the assessment and collection of sales and use taxes outside the corporate limits of the Cities of Auburn and Opelika generally paralleling the state sales and use taxes in the county at a rate not to exceed one percent. In that part of the county outside

the corporate limits of Opelika, but within their police jurisdiction, the tax shall not exceed one-half the rate levied in the remainder of the county. Notwithstanding anything to the contrary herein, said County Commission of Lee County shall not levy any tax hereunder measured by gross receipts, except a sales or use tax which generally parallels, except for the rate of tax, that imposed by the state under applicable law.

**Section 3.** The rate of tax levied under authority of this act on items having a rate of tax under state sales and use tax laws different from the general tax rate shall not exceed that proportion of the rate levied hereunder which the tax levied hereunder bears to the general sales and use tax rate of the state.

**Section 4.** The proceeds from the taxes provided for herein shall be collected by the state department of revenue. Said proceeds, less any costs of collection, shall be deposited without delay into the state treasury to the credit of the County of Lee to be properly distributed by said county as provided for herein. The amount deducted from said proceeds by the department of revenue for the cost of collection shall be an amount equivalent to not more than ten percent (10%) of the revenue collected hereunder. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Lee County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. All revenues arising from the taxes herein authorized to be levied that are due to be paid to Lee County shall be deposited in the county general fund. Of the taxes collected for the first twelve months in which the taxes authorized herein are collected, one-half of said revenues shall be used for general county purposes and one-half of said revenues shall be distributed to the county board of education for educational purposes and in every month thereafter, all revenue shall be distributed to the county board of education for educational purposes.

**Section 5.** All provisions of the state sales and use tax statutes with respect to exemptions, payment, assessment and collection of the state sales and use taxes, making of reports and keeping and preserving records with respect thereto, interest after due date of tax, penalties for failure to comply with the statutes, the promulgation of rules and regulations with respect to the state sales and use tax and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with the provisions of this act when applied to the tax authorized by Section 2 of this act shall apply to the county tax. The commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties, and obligations with respect to the county taxes levied as are imposed on the commissioner and the department, respectively, by

the state sales tax statutes and the state use tax statutes. All provisions of the state sales tax statutes and the state use tax statutes that are made applicable by this act to the county taxes levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed and specifically Act No. 88-400, H. 886, 1988 Regular Session is hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1989

Time: 12:32 P.M.

Act No. 89-630

H. 264—Reps. Cosby, Lindsey, Carter, Richardson, Burke, Butler, Fuller, Breedlove, Blake, Williams, Thomas, Hooper, McMillan, Mikell and White (L)

### AN ACT

To amend Sections 22-27-3 and 22-27-6, Code of Alabama 1975, which relate to the authority of local governing bodies as to methods of waste collections and disposal, and the time for local government compliance with the solid waste laws so as to provide further for the methods of waste collection and disposal facilities for solid wastes; to grant to the several county commissions and municipalities the power and authority by resolution or ordinance to adopt rules and regulations requiring mandatory public participation in solid waste collection and disposal programs; to provide for the powers and duties of solid waste officers; to provide that failure to comply with the provisions of the article shall constitute a public nuisance; and to amend Section 22-27-7, Code of Alabama 1975, which relates to penalties for violation of the provisions of the article so as to further provide for such penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 22-27-3, Code of Alabama 1975, is hereby amended to read as follows:

“Section 22-27-3.

“(a)(1) Generally.—The county commission or municipal governing body may, and is hereby authorized to, make available to the

general public collection and disposal facilities for solid wastes in a manner acceptable to the department. The county commission or municipal governing body may provide such collection or disposal services by contract with private or other controlling agencies and may include house-to-house service or the placement of regularly serviced and controlled bulk refuse receptacles within reasonable (generally less than eight miles) distance from the farthest affected household and the wastes managed in a manner acceptable to the department.

“(2) Any county commission or municipal governing body providing services to the public under the provisions of this article shall have the power and authority by resolution or ordinance to adopt rules and regulations providing for mandatory public participation in and subscription to such system of services. Such governing body may, in its discretion, submit the question of requiring such mandatory public participation to a vote of the qualified electors of the county or municipality as the case may be. If such governing body submits the question to the voters, then the governing body shall also provide for holding and canvassing the returns of the election and for the giving notice thereof for two consecutive weeks in a paper of general circulation in the county. Every person, household, business, industry or property generating solid wastes, garbage or ash as defined in this section shall participate in and subscribe to such system of service unless granted a certificate of exception as provided in subsection (g) of this section. Provided, however, any individual, household, business, industry or property generating solid wastes that were sharing service for a period of at least 6 months may continue to share service without filing for a certificate of exception. An additional exception is granted to persons whose sole income is derived from social security benefits. Such persons are exempted from paying any fees required under this act. In the event such person, household, business, industry or property owner who has not been granted a certificate of exception refuses to participate in and subscribe to such system of service, the county commission or municipal governing body may in addition to any other remedy provided in this article bring an appropriate civil action in circuit court to compel such participation and subscription. Except as provided in subsection (g) of this section any person, firm or corporation violating such rules and regulations shall be in violation of the provisions of this article and shall be punished as provided in Section 22-27-7.

“(3) No county commission shall provide solid waste collection and disposal services within the corporate limits of a municipality without the express consent of the municipal governing body of such municipality nor shall any municipality provide solid waste collection and disposal services outside its corporate limits without the express



consent of the county commission of the county in which it is situated.

“(4) Any county providing door-to-door solid waste collection shall not reduce such service unless and until a letter has been sent to each resident or property or business owner receiving door to door service stating that such service will be reduced or changed and allowing at least 60 days for any resident, business owner, or property owner to call for a public hearing and for the county or municipality to hold such public hearing upon request.

(5) Any provision of this article to contrary notwithstanding, no person, household, business, industry or property owner shall be required to pay any solid waste collection exemption or disposal fee chargeable under the provisions of this article unless solid waste collection and disposal services for which such charge was made were actually provided to such person, household, business, industry or property owner.

“(b) Solid waste officer.—As used in this article, Solid Waste Officer shall mean any county official or county employee designated by the county commission to exercise the authority and perform the duties delegated by this article to such official and such officer shall have the same powers of enforcement against persons violating the provisions of this article as do license inspectors with regard to persons violating revenue laws as provided under Section 40-12-10 (i), (j), (k) and (n).

“(c) Fly ash etc.—As used in this article the terms “solid wastes”, “garbage” and “ash” do not include fly ash waste, bottom ash waste, boiler slag waste or flue gas emission control waste which result from the combustion of coal or other fossil fuels at electric generating plants, nor shall such terms include any drilling discharges from oil or natural gas operations.

“(d) Garbage disposal.—Garbage and rubbish containing garbage shall be disposed of by sanitary landfill, approved incineration, composting or by other means now available or which may later become available as approved by the department. The method chosen and used shall also meet the requirements of the health department for sanitation and the protection of public health.

“(e) Burning.—No garbage or rubbish containing garbage or other putrescible materials or hazardous wastes shall be burned except in approved incinerators meeting the necessary temperature requirements and air pollution controls as now established or as may later be established. The open burning of rubbish shall be permitted only under sharply controlled circumstances where sanitary landfill or landfill is not feasible and not in proximity to sanitary landfill or

landfill operations where spread of fire to these operations may be a hazard in the opinion of the department.

“(f) Haulage.—Trucks or other vehicles engaged in the business of hauling garbage and rubbish shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health.

“(g) Exception.—A person, household, business, industry or any property owner may store, haul and dispose of his own solid wastes on his land or otherwise, provided such storage, haulage or disposal is accomplished pursuant to a certificate of exception as provided in this subsection. In order to obtain a certificate of exception, an application, an application fee, and plan must be filed with the county health officer or his designee in the case of household solid waste or with the department in the case of solid waste from business or industry, setting out the proposed method of storing, hauling and disposing of solid waste so as to comply with rules and regulations adopted by the state or county boards of health or the department as appropriate and not create a public nuisance or hazard to the public health. The certification of exception application fee shall be established by the state board of health or the department, as the case may be, except that with regard to an individual household such fee shall be \$10.00. The proceeds from such application fees are hereby appropriated to the state board of health or the department, as the case may be, to be used for the administration of the provisions of this article. The county health officer or his designee or the department as appropriate shall investigate such application and plan and issue a certificate of exception within the time set by the state board of health or the department, as the case may be (not to exceed sixty days in the case of an individual household), if such proposal will, in such officer's or designee's or the department's judgment, comply with such rules and regulations and adequately prevent a public nuisance or hazard to public health. A certificate of exception granted under authority of this section shall be valid for the period established by the department, except that in the case of an individual household such period shall not exceed one year. The county health officer or his designee or the department shall notify the county commission or municipal governing body in writing of the intention to grant a certificate of exception and no such certificate of exception shall be granted for an individual household without prior written approval of the county commission or municipal governing body as the case may be. Any person who has been laid off from their jobs shall be able to apply for a waiver to this bill while laid off.”

**Section 2.** Section 22-27-6, Code of Alabama 1975, is hereby amended to read as follows:

“Section 22-27-6.

“(a) The county commission may by resolution or ordinance provide for the orderly collection of fees charged under the provisions

of this article. Such commission may establish periodic payment systems and are authorized to purchase necessary supplies and materials and employ personnel necessary to effectuate any such periodic payment system. Such periodic payment system may be effected by the county through negotiation with any one or more public or private utilities providing service in the county for the periodic billing of such fees and the collection thereof on behalf of the county by one or more such utilities. Any delinquency in any such payment shall constitute a violation of this article and entitle the county to pursue any remedy provided in this article. The county may agree to pay reasonable compensation to any such utility for its services in connection with the collection and payment to the county of all such sums so collected. The county commission shall adopt such rules and regulations as it deems necessary to implement the provisions of this article.

“(b) Whenever the solid waste officer shall find that any person, household, business, industry or any property owner has failed to subscribe to the county solid waste collection program and pay the required solid waste collection and disposal fees or has failed to obtain a certificate of exception in violation of this article such failure shall constitute a public nuisance. The solid waste officer shall thereupon cite such delinquent to appear before the solid waste officer within ten (10) days at the courthouse of the county in which the citation is issued and to show cause why subscription has not been made, such fees have not been paid or an exemption has not been obtained and, at the same time, shall file with the county commission a copy of such citation showing service on the delinquent. Should such delinquent appear timely before the solid waste officer and cannot give satisfactory proof that he has obtained a certificate of exception such officer shall cause the delinquent to subscribe to the solid waste collection and disposal program and pay the required fees. If such delinquent shall fail or refuse to subscribe to the such program and pay such fees, the solid waste officer shall institute or cause to be instituted proceedings as provided in Section 2-27-7 against such delinquent before any court having jurisdiction of such offense. Should such delinquent fail to appear before the solid waste officer within the time allowed such officer shall institute or cause to be instituted proceedings as provided in Section 2-27-7 against such delinquent before any court having jurisdiction of such offense.”

**Section 3.** Section 22-27-7, Code of Alabama 1975, is hereby amended to read as follows:

“Section 22-27-7. With regard to the collection of solid wastes, the health department shall exercise such supervision over equipment, methodology and personnel in the management of solid wastes as may be necessary to enforce sanitary requirements, and the state

and county boards of health may adopt such rules and regulations as may be needed to specify methodology and procedures to meet the requirements of this article. With regard to the disposal of solid wastes, the department shall exercise such regulatory control over the management of solid wastes as may be necessary to enforce the requirements of the department, and the department may adopt such rules and regulations as may be needed to meet the requirements of this article. Any person violating any provision of this article or any rule or regulation made pursuant to this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$200.00, and, if the violation or failure or refusal to obey or comply with such provision as this article or such rule or regulation is a continuing one, each day's violation shall constitute a separate offense and shall be punished accordingly. Any person, firm or corporation granted an exception under subsection (g) of Section 22-27-3 who or which fails to carry out and comply with the provisions of the proposals embodied in the application and plan upon which a certificate of exception was issued to him or it shall be guilty of a misdemeanor and shall be punished as provided in this section. Any person, firm or corporation which has not been issued a certificate of exception under subsection (g) of Section 22-27-3 and which utilizes the solid waste disposal system of any county or municipality and which fails to pay the fee, rate or charge established by the county commission or municipal governing body therefore shall be guilty of a misdemeanor and shall be punished as provided in this section. All citations to violators of this article shall be served by any lawful officer or by the solid waste officer."

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1989

Time: 12:33 P.M.

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Act No. 89-631

H. 565—Rep. Holley

### AN ACT

To amend Section 32-9-20, Code of Alabama 1975 relating to motor vehicle sizes and weights so as to regulate further the sizes and weights of motor vehicles on highways in Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-9-20, Code of Alabama 1975 is hereby amended to read as follows;

“§32-9-20.

“It shall be unlawful for any person to drive or move on any highway in this state any vehicle or vehicles of a size or weight except in accordance with the following provisions:

“(1) **WIDTH.** Vehicles and combinations of vehicles, operating on highways with traffic lanes 12 feet or more in width, shall not exceed a total outside width, including any load thereon, of 102 inches, exclusive of mirrors or other safety devices approved by the state highway department. The director of the state highway department may, in his discretion, designate other public highways for use by vehicles and loads with total outside widths not exceeding 102 inches, otherwise; vehicles and combinations of vehicles, operating on highways with traffic lanes less than 12 feet in width, shall not exceed a total outside width, including any load thereon, of 96 inches, exclusive of mirrors or other safety devices approved by the state highway department. No passenger vehicle shall carry any load extending beyond the line of the fenders. No vehicle hauling forest products or culvert pipe on any highway in this state shall have a load exceeding 102 inches in width.

“(2) **HEIGHT.** No vehicle or semitrailer or trailer shall exceed in height 13 1/2 feet, including load.

“(3) **LENGTH.** No vehicle shall exceed in length 40 feet; except, that the length of A truck-semi-trailer combination, semi-trailers, including load, used in a truck tractor-semi-trailer combination, shall not exceed 53 feet and semi-trailers and trailers, including load, used in a truck tractor-semi-trailer-trailer combination, shall not exceed 28 1/2 feet each. For purposes of enforcement of this subdivision, lengths of semi-trailers and trailers refer to the cargo carrying portion of the unit. Truck tractor units used exclusively in combinations transporting motor vehicles may directly carry a portion of the cargo, provided that such combinations are restricted to truck tractor-semi-trailer combinations only and provided further that the overall length of these particular combinations shall not exceed 65 feet. No truck tractor-semi-trailer combination used exclusively for transporting motor vehicles shall carry any load extending more than three feet beyond the front or four feet beyond the rear of such combination. No other vehicle operated on a highway shall carry any load extending more than a total of five feet beyond both the front and rear, inclusive, of the vehicle.

“(4) **WEIGHT.**

“a. The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds, or such other weight, if any, as may be permitted by federal law to keep the

state from losing federal funds; provided, that inadequate bridges shall be posted to define load limits.

“b. For the purpose of this section, an axle load shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

“c. Subject to the limit upon the weight imposed upon the highway through any one axle as set forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distances between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

### “COMPUTED GROSS WEIGHT TABLE:

For various spacings of axle groupings

Distance in feet between first and last axles of vehicle or combination of vehicles		Maximum load in pounds on all the axles				
	2 axles	3 axles	4 axles	5 axles	6 axles	
8 or less	36,000	42,000	42,000			
9	38,000	42,500	42,500			
10	40,000	43,500	43,500			
11		44,000	44,000			
12		45,000	50,000	50,000		
13		45,500	50,500	50,500		
Distance in feet between first and last axles of vehicle or combination of vehicles		Maximum load in pounds on all the axles				
	2 axles	3 axles	4 axles	5 axles	6 axles	
14		46,500	51,500	51,500		
15		47,000	52,000	52,000		
16		48,000	52,500	58,000	58,000	
17		48,500	53,500	58,500	58,500	
18		49,500	54,000	59,000	59,000	
19		50,000	54,500	60,000	60,000	
20		51,000	55,500	60,500	66,000	
21		51,500	56,000	61,000	66,500	
22		52,500	56,500	61,500	67,000	
23		53,000	57,500	62,500	68,000	

24	54,000	58,000	63,000	68,500
25	54,500	58,500	63,500	69,000
26	56,000	59,500	64,000	69,500
27	57,000	60,000	65,000	70,000
28	59,000	60,500	65,500	71,000
29	60,000	61,500	66,000	71,500
30		62,000	66,500	72,000
31		63,500	67,000	72,500
32		64,500	68,000	73,500
33		65,000	69,000	74,000
34		65,500	70,000	74,500
35		66,500	71,000	75,000
36		67,000	72,000	76,000
37		68,000	73,000	77,000
38		69,000	74,000	78,000
39		70,000	75,000	79,000
40		71,000	76,000	80,000
41		72,000	77,000	81,000
42		73,000	78,000	82,000
43		74,000	79,000	83,000
44 and over		75,000	80,000	84,000

“Except as provided by special permits, no vehicle or combination of vehicles exceeding the gross weights specified above shall be permitted to travel on the public highways within the state of Alabama.

“No vehicle or combination of vehicles shall be permitted to operate on any portion of the interstate highway system of Alabama that shall have a greater weight than 20,000 pounds carried on any one axle, including all enforcement tolerances, or with a tandem axle weight in excess of 34,000 pounds, including all enforcement tolerances, or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of any group of two or more consecutive axles and N = number of axles in group under consideration; except, that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, provided the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more; provided, that such overall gross weight may not exceed 80,000 pounds, including all enforcement tolerances. Nothing in this section shall be construed as permitting size or weight limits on the national system of interstate and defense highways in this state in excess of

those permitted under 23 U.S.C. section 127. If the federal government prescribes or adopts vehicle size or weight limits greater than or less than those now prescribed by 23 U.S.C. section 127 for the national system of interstate and defense highways, the increased or decreased limits shall become effective on the national system of interstate and defense highways in this state. Nothing in this section shall be construed to deny the operation of any vehicle or combination of vehicles that could be lawfully operated upon the highways and roads of this state on January 4, 1975.

“d. For purposes of enforcement of subdivision (4) of this section, all scaled weights shall be deemed to have a margin of error of 10 percent of the true gross or axle weights.

“e. Dump trucks, dump trailers, concrete mixing trucks, fuel oil, gasoline trucks and trucks designated and constructed for special type work or use shall not be made to conform to the axle spacing requirements of paragraph (4)c of this section; provided, that such vehicle shall be limited to a weight of 20,000 pounds per axle plus scale tolerances; and, provided further, that the maximum gross weight of such vehicles shall not exceed the maximum weight allowed by this section for the appropriate number of axles, irrespective of the distance between axles, plus allowable scale tolerances. All axles shall be brake equipped. Concrete mixing trucks which operate within 50 miles of their home base shall not be required to conform to the requirements of paragraph (4)a of this section; provided, that such vehicles shall be limited to a maximum load of the rated capacity of the concrete mixer, such true gross load not to exceed 66,000 pounds, and all such vehicles shall have at least three axles, each with brake equipped wheels. It shall be a violation if such vehicles named under this subdivision travel upon bridges designated and posted by the highway director as incapable of carrying such load.

“f. If the driver of any vehicle can comply with the weight requirements of this section by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, said driver shall not be held to be operating in violation of this section.

“g. When portable scales are used in the enforcement of the provisions of this section, the axles of any vehicle described or commonly referred to as tandem or triaxle rigs or units (that is, vehicles having two or more axles in addition to a steering axle), the group of tandem or triaxles shall be weighed simultaneously, and the total weight so derived shall be divided by the number of axles weighed in the group to arrive at the per axle weight, except that if any one axle in the group exceeds 20,000 pounds in weight, it shall not exceed the weight of any other axle in the group by more than 50 percent. When portable scales are used to determine the



weight of a vehicle pursuant to this section, the operator of the vehicle will be permitted to move the vehicle to the nearest platform scales certified by the department of agriculture and industries and operated by a bonded operator within a distance of 10 highway miles, accompanied by an enforcement officer to verify the accuracy of the portable scales used in determining the vehicle weight. If the weight of the vehicle is shown by the platform scales to be within the legal limits of this section, the operator of the vehicle shall not be held to be in violation of this section.

“h. The governing body of a county, by appropriate resolution, may authorize limitations less than those prescribed herein for vehicles operated upon the county highways of such county.

“i. The state highway department, for cause, shall have the right to post or limit any road or bridge to weights less than those prescribed by this section. It is the legislative intent and purpose that the provisions of this section be rigidly enforced by the state highway department, the department of public safety and any other authorized law-enforcement officers of the state, any county or city and incorporated towns.

“j. Two and three axle vehicles being used exclusively for the purpose of transporting agricultural commodities or products to and from a farm and for agricultural purposes relating to the operation and maintenance of a farm by any farmer, custom harvester or husbandman may not be made to conform to the axle requirements of paragraph (4)a of this section or the gross weight requirements of paragraph (4)c of this section.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1989

Time: 12:34 P.M.

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Act No. 89-632

H. 450—Rep. Ford

### AN ACT

To amend Section 5-17-8, Code of Alabama 1975, so as to grant to the Administrator of the Alabama Credit Union Administration the power to order a credit union to cease and desist from certain activities, to suspend individuals from participating in the affairs of a credit union and to establish procedures to appeal such orders to the Board of the Alabama Credit Union Administration; amends Section 5-17-18, Code of Alabama 1975, so as to prohibit late charges for any credit union loan not calculated on a simple interest basis; and amends the credit union laws so as to

prohibit specific acts which would be prohibited if credit unions were subject to the prohibited acts provisions of state banking laws; providing penalties for violation of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5-17-1, Code of Alabama 1975, is hereby amended to read as follows:

“§5-17-8.

“(a) Credit unions shall report to the administrator of the Alabama credit union administration at least annually on or before January 31 on blanks supplied by the administrator for that purpose. Additional reports may be required. Credit unions shall be examined at least annually by employees of the administrator or by other persons designated by the administrator. For failure to file reports when due, unless excused for cause by the administrator, the credit union shall pay to the treasurer of the state \$5.00 for each day of its delinquency.

“(b) If the administrator determines that the credit union is violating the provisions of this chapter, or is insolvent, he may suspend operations of such credit union by issuing an order requiring that such credit union cease operations pending a hearing on the revocation of the certificate of approval, or he may set a date for a hearing on the revocation of the certificate of approval without suspending operations of the credit union. If the administrator suspends operations of the credit union, a hearing on the revocation of the certificate of authority shall be held within 90 days from the date of the order requiring suspension of operations. If demanded by the credit union, the hearing on revocation of the certificate of authority, whether or not the administrator has suspended operations of the credit union pending such hearing, shall be conducted on the record by the administrator and he shall make findings of fact and a written determination concerning revocation of the certificate of authority. Such determination may contain an order requiring that such credit union immediately suspend operations or continue in effect a previous order requiring the suspension of operations. If the determination is that the credit union is violating the provisions of this chapter, or is insolvent, and that the certificate of authority should be revoked, and if, for a period of 15 days after said hearing, said violation continues, the administrator may revoke said certificate and take possession of the business and property of said credit union and maintain possession until such time as he shall permit it to continue business or its affairs are finally liquidated.

“(c) The Administrator may, with the approval of a majority of the credit union board of the Alabama Credit Union Administration,

issue a cease and desist order upon finding that the credit union or any officer, director, committee member or employee thereof, has:

“(1) committed any violation of a law, rule or regulation, or

“(2) engaged or participated in any unsafe or unsound practice in connection with the credit union business, or

“(3) engaged in any act, omission or practice which constitutes a breach of fiduciary duty to the credit union, or

“(4) committed any fraudulent or questionable practice in the conduct of the credit union’s business which endangers the credit union’s reputation or threatens insolvency, or

“(5) violated any condition imposed in writing by the Administrator or any written agreement made with the Administrator, or

“(6) concealed, destroyed, removed, falsified, or perjured any book, record, paper, report, statement, or account related to the business and affairs of the credit union.

“Any cease and desist order shall be effective not earlier than 10 days after it is delivered to the credit union. The credit union shall have 10 days from the receipt of any cease and desist order to appeal to the credit union board of the Alabama Credit Union Administration by serving the Administrator with a written notice of appeal within said 10-day period. Upon receipt of a notice of appeal from the credit union, the effect of the cease and desist order will be suspended pending a decision upon appeal; provided that a majority of the credit union board of the Alabama Credit Union Administration may order that such cease and desist order be in force and effect pending the decision on appeal. A hearing of any appeal shall be held before the credit union board of the Alabama Credit Union Administration within 30 days of the notice of appeal and the decision of the Credit Union Board shall be rendered within 15 days after such hearing.

“(d) The Administrator of the Alabama Credit Union Administration may suspend from office and prohibit further participation in any manner in the conduct of the affairs of a credit union of any director, officer, committee member or employee who has:

“(1) committed any violation of a law, rule or regulation, or

“(2) engaged or participated in any unsafe or unsound practice in connection with the credit union business, or

“(3) engaged in any act, omission or practice which constitutes a breach of fiduciary duty to the credit union, or

“(4) committed any fraudulent or questionable practice in the conduct of the credit union’s business which endangers the credit union’s reputation or threatens insolvency, or

“(5) violated any condition imposed in writing by the Administrator or any written agreement made with the Administrator, or

“(6) concealed, destroyed, removed, falsified, or perjured any book, record, paper, report, statement, or account related to the business and affairs of the credit union.

“The credit union or any person effected by such an order may appeal by written appeal delivered to the Administrator within 10 days after the issuance of such an order. In the event of such an appeal, a hearing shall be held before the credit union board of the Alabama Credit Union Administration within 30 days of the filing of such an appeal and the decision shall be rendered by the credit union board within 15 days after such hearing. Unless the Administrator directs otherwise, the prohibition against participation in the conduct of the affairs of a credit union will remain effective until such time as it is rescinded by a vote of the credit union board of the Alabama Credit Union Administration to rescind such prohibition against participation in the affairs of a credit union.”

**Section 2.** Section 5-17-18, Code of Alabama 1975, is hereby amended to read as follows:

“State chartered credit unions may charge such rates of interest and other finance charges as are authorized for other financial institutions pursuant to the Alabama Consumer Credit Act or other applicable law and may charge a late charge in an amount authorized by the Alabama Consumer Credit Act, provided that such late charge may only be assessed on simple interest loans and simple interest open-end credit plans. As used herein, ‘simple interest’ means charging an interest rate on the unpaid balances of the amount outstanding from time to time for the actual time such balance is outstanding.”

**Section 3.** Any officer, director, employee, or committee member of a credit union who intentionally conceals from the directors or a committee of such credit union any discount or loan made for and in behalf of the credit union between the regular meetings of its board of directors or credit committee is guilty of a Class C misdemeanor.

**Section 4.** Any officer, director, committee member, or employee of a credit union who willfully and knowingly overdraws his own account with such credit union and thereby obtains money or funds of any such credit union except as specifically permitted by the written loan policy of the board of directors or asks, receives, consents or agrees to receive any commission, emolument, gratuity, or reward or any promise of any commission, emolument or reward, or any money, property or thing of value or of personal advantage in procuring or endeavoring to procure for any person, firm or corporation any loan from or the purchase or discount of any paper,

note, draft check or bill of exchange by any such credit union is guilty of a Class C misdemeanor.

**Section 5.** Any director, officer, committee member, or employee of a credit union who knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand and with intent to defraud shall be guilty of a Class C felony.

**Section 6.** Any director, officer, committee member or employee of a credit union who with intent to defraud makes or concurs in making any false entry, or with intent to defraud omits or concurs in omitting to make any material entry on its books and accounts, shall be guilty of a Class C felony.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby amended or repealed to the extent of such conflict as necessary to permit the full effectiveness of this act.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 5, 1989

Time: 12:35 P.M.

Act No. 89-633

H. 909—Reps. Layson and Newman

### AN ACT

Relating to the 24th judicial circuit; amending Section 1 of Act No. 86-553, S. 641, of the Regular Session of 1986 (Acts 1986, p. 1127), which provides a monthly expense allowance for the presiding judge, so as to remove the restriction on such allowance to certain travel expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 86-553, S. 641, of the Regular Session of 1986 (Acts 1986, p. 1127), is hereby amended to read as follows:

“Section 1. The presiding judge of the 24th judicial circuit shall receive a \$500.00 per month expense allowance to be paid by the district attorney’s fund in the county where the presiding judge’s principal office is located. Said allowance shall be in addition to all

other expense allowances, salary or other compensation presently authorized.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:30 P.M.

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Act No. 89-634

H. 868—Rep. Hogan

AN ACT

Relating to Walker County, providing further for the compensation of the county treasurer.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Walker County, the county treasurer is hereby authorized to receive an additional expense allowance in an amount that will make his total compensation, including salary and previous expense allowances heretofore provided by law, equal to \$18,000.00 per annum. Said expense allowance and compensation shall be payable from the county general fund.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:31 P.M.

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Act No. 89-635

H. 824—Rep. White (G)

AN ACT

To establish an expense allowance for the following officers of Jefferson County, Alabama: the County Commissioners; and to provide that such expense allowance as fixed by this act shall take effect at the beginning of the next term of office of said officers and the beginning of each term of office of said officers thereafter.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply to Jefferson County and to no other county.

**Section 2.** As used herein these terms have the meanings hereby given them: "County" means Jefferson County; "County Commission" means the County Commission of Jefferson County, Alabama.

**Section 3.** Commencing immediately and continuing at the beginning date of each successive term of office thereafter the county commissioners shall each receive a monthly expense allowance in the amount of \$400.00 per month. This expense allowance shall be in addition to all other salaries and other benefits provided by law for such offices.

**Section 4.** All expense allowances provided for by this act shall be paid in advance on the first day of each month. No officer receiving this expense allowance shall be required to file an accounting thereof.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:32 P.M.

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Act No. 89-636

H. 822—Reps. White (G) and Wright

### AN ACT

To establish the salaries for the following officers of Jefferson County, Alabama: the president of the county commission and the four associate county commissioners; and to provide that the salaries as fixed by this act shall take effect at the beginning of the next term of office of said officers and the beginning of each term of office of said officers thereafter.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply to Jefferson County and to no other county.

**Section 2.** As used herein these terms have the meanings hereby given them: "County" means Jefferson County; "County Commission" means the County Commission of Jefferson County, Alabama.

**Section 3.** Commencing at the next term of office, and commencing at the beginning date of each successive term of office

thereafter, the annual salary of the president of the county commission is hereby fixed at \$67,500.00.

**Section 4.** Commencing at the next term of office and commencing at the beginning date of each successive term of office thereafter, the annual salary of each of the four associate county commissioners of the county commission is hereby fixed at an amount which is \$1,500.00 less than the annual salary of the president of the county commission.

**Section 5.** All salaries provided for in this act shall be paid in the manner and at such times as county employees are paid.

**Section 6.** The annual salary of the president of the county commission and the annual salary of the four associate county commissioners now in effect shall remain the same until the expiration of the present terms of their respective offices.

**Section 7.** All laws or parts of laws, whether general, local or special, in conflict with any part of this act are hereby repealed to the extent of any such conflict.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:33 P.M.

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Act No. 89-637

H. 655—Reps. Hall and Freeman

### AN ACT

Relating to Madison County; to exempt the Optimist Club of Hazel Green, Inc., from all county or local ad valorem taxation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All property owned by the Optimist Club of Hazel Green, Inc., a Madison County nonprofit corporation, is hereby exempted from all county and local ad valorem taxation.



**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:34 P.M.

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Act No. 89-638

H. 767—Rep. Curry

AN ACT

Relating to Jefferson County; authorizing the Director of Revenue, Commissioner of Licenses or License Inspector to issue boat licenses by mail and to allow an additional issuance fee to cover the expense of mailing such licenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Director of Revenue or Commissioner of Licenses or License Commissioner or other public officer performing such services for Jefferson County is hereby authorized to issue boat licenses pursuant to Chapter 5, Title 33, Code of Alabama 1975, by mail and may collect an issuance fee in addition to all other fees authorized by law in an amount not to exceed \$2.00.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:35 P.M.

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Act No. 89-639

H. 614—Rep. Zoghby

AN ACT

To further amend Section 40-8-1, Code of Alabama 1975, as amended, relating to the assessment rate of ad valorem taxes and definitions therefor, so as to include certain identifiable formula for inclusion of state historical buildings, places and sites.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-8-1, Code of Alabama 1975, as amended, is hereby further amended to read as follows:

“§40-8-1.

“(a) On and after October 1, 1978, with respect to ad valorem taxes levied by the state, and, unless otherwise provided, with respect

to ad valorem taxes levied by a county, municipality or other taxing authority other than the state, all taxable property shall be divided into the following classes and no other and shall be assessed for ad valorem tax purposes at the following ratios of assessed value to the fair and reasonable market value of such property, or, as may be provided by law, to the current use value of such property:

“Class I. All property of utilities used in the business of such utilities, 30 percent.

“Class II. All property not otherwise classified, 20 percent.

“Class III. All agricultural, forest and residential property, and historic buildings and sites, 10 percent.

“Class IV. All private passenger automobiles and motor trucks of the type commonly known as ‘pickups’ or ‘pickup trucks’ owned and operated by an individual for personal or private use and not for hire, rent or compensation, 15 percent.

“(b) As used herein, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) ALL PROPERTY OF UTILITIES. All property assessed for taxation by the Department of Revenue pursuant to the provisions of Chapter 21 of this title; provided, that after September 30, 1979, and only to the extent required by Title III, §306 of Pub. L. 94-210 (the Railroad Revitalization and Regulatory Reform Act of 1976, codified as 49 U.S.C. §26c), ‘transportation property,’ as that term is defined in the aforesaid statute, as heretofore or hereafter amended, or in any subsequent statute of similar import, shall not be assessed as Class I property.

“(2) ALL RESIDENTIAL PROPERTY. Only mobile homes and real property, used by the owner thereof exclusively as the owner’s single-family dwelling.

“(3) AGRICULTURAL AND FOREST PROPERTY. All real property used for raising, harvesting and selling crops or for the feeding, breeding, management, raising, sale of or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof.

“(4) ALL PROPERTY NOT OTHERWISE CLASSIFIED. All real and personal property which does not fall within any one or more of Classes I, III and IV.

“(5) ALL PRIVATE PASSENGER AUTOMOBILES AND MOTOR TRUCKS OF THE TYPE COMMONLY KNOWN AS ‘PICK-UPS’ OR ‘PICKUP TRUCKS’ OWNED AND OPERATED BY AN INDIVIDUAL FOR PERSONAL OR PRIVATE USE AND NOT FOR HIRE, RENT OR COMPENSATION. All private passenger automobiles, as that term is defined in sections 40-12-240, subdivision (12), and 40-12-241; and all motor trucks of the type commonly known as ‘pickups’ or ‘pickup trucks,’ weighing not exceeding 8,000 pounds.

“(6) HISTORIC BUILDINGS AND SITES. Regardless of the use to which such property is put, all buildings or structures (i) determined eligible by the state historic preservation officer for listing on the National Register of Historic Places; or (ii) located in a registered historic district and certified by the United States secretary of the interior as being of historic significance to the district.

“(7) MOBILE HOME. A structure, transportable in one (1) or more sections, and which is built on a permanent chassis, and not designed normally to be drawn or pulled on the highway except to change permanent locations, but is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems, if any, contained therein. It may be used as a place of residence, business, profession, trade or for any other purpose, by the owner, lessee, or assigns and may consist of one or more units that can be attached or joined together.

“(c) Wherever any statute provides for, limits or measures the power or authority of any county, municipality or other taxing authority to levy taxes, borrow money or incur indebtedness in relation to the assessment of property therein for state taxes or for state and county taxes, such provision shall mean as assessed for county or municipal taxes.

“(d) The following property shall be exempted from ad valorem taxation: the real and personal property of the state, counties and municipalities and real and personal property devoted exclusively to religious, education or charitable purposes. The property of Masonic lodges, Knights of Columbus homes and union halls shall be exempt when used exclusively for the purposes and business of such organizations. All property now exempt by law shall continue to be exempt from taxation until changed by law.

“(e) The Department of Revenue shall have authority to promulgate rules and regulations for the uniform identification and assessment of mobile homes.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:36 P.M.

Act No. 89-640

H. 141—Reps. Johnson (RG), Carothers  
and Beasley

### AN ACT

To amend further sections 16-25-14 and 36-27-16, Code of Alabama 1975, relating to retirement benefits under the Teachers' and Employees' Retirement Systems, so as to provide for disability retirement in cases of service retirement upon completion of twenty-five years of creditable service.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 16-25-14 and 36-27-16, Code of Alabama 1975, are hereby amended further to read as follows:

“§16-25-14.

“(a) (1) Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service.

“(2) Any member who has attained age 60 and has previously withdrawn from service may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that the said member shall have completed at the time for his withdrawal from service the requirements established by the board of control for eligibility for deferred benefits pursuant to section 16-25-3.

“(3) Any person who is presently covered or is eligible to be covered under the employees' retirement system of Alabama or the teachers' retirement system of Alabama and who, prior to such coverage or eligibility for coverage, served as head of any Alabama county's public library service department shall be credited to him or her one year of creditable service for each year served as such head, not to exceed 12 years; provided, that such person shall pay

into the retirement system the employee's part of the cost or contribution based on the salary paid to such person during the time of his or her service in the above capacity, with such cost or contribution to be calculated at the percent or rate in effect on October 1, 1973.

"(4) Any member of the teachers' retirement system of Alabama, who withdraws from service after the completion of at least 25 years of creditable service, may retire upon written application to the board of control of the teachers' retirement system setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963 shall have completed 10 or more years of creditable service.

"(b) Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"(2) A pension which shall be equal to the annuity allowable at the age of retirement, but not to exceed an annuity allowable at age 65 computed on the basis of contributions made prior to the attainment of age 65; and

"(3) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which would have been provided at age of retirement, but not to exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of the members that was received during such prior service, the board of control may use for the purposes of this chapter the compensation rates which, if they had progressed with the rates of salary increase shown in the tables as prescribed in subsection (o) of section 16-25-19, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"(c) The annual service retirement pension payable to a member retiring on or after October 1, 1975 shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"(1) Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

“(2) If he became a member before October 1, 1971, \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“Notwithstanding, a member who retired prior to October 1, 1971, under service retirement shall receive \$120.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“(d) Upon the application of a member in service or of his employer, any member who has had 10 or more years of creditable service may be retired by the board of control on a disability retirement allowance not less than 30 nor more than 90 days next following the date of filing such an application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

“(e) Upon retirement for disability, a member shall receive a service retirement allowance if he has attained age 60 or if any law or part of any law pertaining to retirement under the teachers' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service and the member has completed 25 years of creditable service; otherwise, he shall receive a disability retirement allowance which shall consist of:

“(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

“(2) A pension which shall be equal to the pension that would have been payable under subdivisions (2) and (3) of subsection (b) of this section upon service retirement at age 60 had the member continued in service to said age without change in compensation, reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday to a maximum reduction of 25 percent.

“The annual disability retirement pension shall not be less than an amount which when added to his annuity is equal to the greater of the following amounts:

“a. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday to a maximum reduction of 25 percent;

“b. If he became a member before October 1, 1971, \$54.00 multiplied by the number of years of his creditable service not in excess of 25 years; or

"c. If any law or part of any law pertaining to retirement under the teachers' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service, two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by one fourth of one percent for each month less than 25 years of creditable service up to a maximum of 25 percent.

"Notwithstanding, a member who retired prior to October 1, 1971, for disability shall receive \$90.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"(f)(1) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of control may and upon his application shall require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of control.

"(2) Should the medical board report and certify to the board of control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board of control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation.

"(g)(1) Should a member cease to be a teacher, except by death or by retirement under the provisions of this chapter, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand, and in addition to such payment there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but

less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section.

“(3) In case of the death of a member not eligible for credit retirement after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to to accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section.

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivision (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board of control.

“(h) With the provision that no election of an option shall be effective until the end of the month following the effective date of retirement and that should a beneficiary die before his first benefit payment is due at the end of the month following the effective date of retirement he shall be considered as an active member at the time



of death, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent at that time of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

“(1) OPTION 1.—If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of control;

“(2) OPTION 2.—Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement;

“(3) OPTION 3.—Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement; or

“(4) OPTION 4.—Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board of control.

“(i)(1) Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 50, his retirement allowance shall be suspended until he again withdraws from service and, he shall not again become a member, nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the board of control to allow him to again become a member of the retirement system. The board of control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any period subsequent to the date of his reentry into active service; provided further, that he shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis, together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

"(2) Should any beneficiary on disability retirement be restored to active service before reaching age 50, he shall again become a member of the retirement system and shall make contributions.

"(j)(1) All retirement allowance payments due on or after October 1, 1975 to members who retired prior to October 1, 1975 shall be redetermined as if the provisions of subsections (b) and (e) of this section which became effective on said date were in effect at the time the member retired; provided, that the annual retirement allowance of any member who retired on or before January 1, 1956 shall be not less than \$132.00 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement or \$99.00 multiplied by the number of years of creditable service not in excess of 30 years in the case of disability retirements. Any increase provided in the retirement allowance payment under this subsection for a member who retired under the provisions of any optional benefit elected pursuant to subsection (h) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subsection.

"(2) Any person who served at least 30 years as a teacher in the public schools of Alabama and was never a member of the system and who, prior to October 1, 1963, was in receipt of a benefit for old age assistance pursuant to subsections (1) and (2) of section 1 of Act 116, approved August 24, 1959, shall be entitled to receive an annual retirement allowance of \$3,960.00 from the system, effective as of October 1, 1973.

"(3) Prior to October 31, 1975 any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivision (1) or (2) of this subsection. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary, the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representative or to such person as he shall have nominated by written designation duly acknowledged and filed with the board of control."

"§36-27-16

"(a)(1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY; ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

"a. Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the

board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service; provided further, that a member employed as a state policeman shall be eligible to file application of service retirement upon attaining age 52.

"b. Any member who has attained age 60, or age 52 in the case of a state policeman, and has previously withdrawn from service may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, said member shall have at the time of his withdrawal from service completed the age and service requirements established by the board of control for eligibility for deferred benefits; provided, that such minimum number of years of creditable service shall not be less than 10 years nor more than 25 years.

"c. In addition to any law or part of law relating to service retirement under the employees' retirement system of Alabama, any member of the employees' retirement system who withdraws from service after completion of not less than 25 years of creditable service may retire without a reduction in retirement allowance upon written application to the board of control of the employees' retirement system setting forth the first day of which month, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he desires to be retired, provided that no person whose employer participates in the employees' retirement system under section 36-27-6 shall be entitled to the benefits provided in paragraph C of this subsection unless such employer elects to come under the provisions of said paragraph. Any employer making such election must bear the cost of such benefit.

#### "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

"a. Upon retirement from service a member shall receive a service retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the annuity shall be equal to the annuity that would have been payable upon service retirement at age 60 had the member continued in service to age 60 without change in compensation;

"2. A pension which shall be equal to the annuity allowance at age of retirement, but not to exceed an annuity allowable at age 65, computed on the basis of contributions made prior to attainment of

age 65; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the pension shall be equal to the annuity that he would have received had he contributed to age 60 without change in compensation; and

“3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, an additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at age 60, but which shall not exceed an annuity allowance at age 60 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder.

“b. Notwithstanding the provisions of subparagraphs 1, 2, and 3 of paragraph a of this subdivision, a state policeman who has completed 20 years of service as a state policeman who retires after age 52 but prior to age 56 shall receive:

“1. An annuity which shall be equal to the annuity that would have been payable had the member continued in service for four years without change in compensation;

“2. A pension which shall be equal to the annuity that he would have received had he contributed for four years without change in compensation; and

“3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at the age of retirement plus four years by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of a member that was received during such prior service, the board of control may use for the purpose of this article the compensation rate which, if it had progressed with the rates of salary increase shown in the tables as prescribed in subsection (n) of section 36-27-23, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"c. The annual service retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity, is equal to the greater of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. The annual service retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity is equal to the greater of the following two amounts:

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, \$86.40 multiplied by the number of years of his creditable service not in excess of 25 years; provided, however, that if such member has completed 20 years of creditable service as a state policeman and has not attained age 60 at the time of retirement, said pension shall be determined as provided in this subparagraph on the basis of the number of years of creditable service which he would have had if he had remained in service for four years, except that, in the case of those state policemen retiring at age 56 or after, the number of years in determining said pension shall not exceed the number of years of creditable service which he would have had if he had remained in service to age 60.

"e. Anything in this article to the contrary notwithstanding, in the application of the foregoing provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification, the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

"f. The annual service retirement pension payable to any state employee who had attained age 60 on or before October 1, 1945, who declined membership in the employees' retirement system of Alabama

in the manner prescribed in section 36-27-4 and who retires as a state employee after completing a minimum of 15 years' service shall be \$72.00 multiplied by the number of years of his service not in excess of 25 years.

**“(b)(1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.**

“a. Upon application of a member in service or of his employer, any member who has had 10 or more years of creditable service who becomes disabled may be retired on a disability retirement allowance by the board of control not less than 30 nor more than 90 days next following the date of filing of such application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

“b. Without regard to the number of years of creditable service, a member employed as a state policeman, who as a result of his employment, in the line of duty and not as a result of his own misconduct, shall become permanently and totally disabled to the extent that he cannot perform his duties or duties of a less strenuous nature, as an employee of the state of Alabama or as an employee of an employer participating under the provisions of section 36-27-6, shall be retired on a disability retirement allowance, not less than 30 nor more than 90 days next following the date of filing of such application, provided that the medical board, after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

**“(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.**

“a. Upon retirement for disability a member shall receive a service retirement allowance if he has attained age 60, or if any law or part of any law pertaining to retirement under the employees' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance and the member has completed 25 years of creditable service, or, in the case of a state policeman, if he has attained age 52; otherwise, he shall receive a disability retirement allowance which shall consist of:

“1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

“2. A pension which shall be equal to the pension that would have been payable under subparagraphs 2 and 3 of paragraph a of

subdivision (2) of subsection (a) of this section upon service retirement at age 65 had the member continued in service to said age without change in compensation, reduced by one fourth of one percent for each month of retirement prior to age 60, up to a maximum reduction of 25 percent.

"b. The annual disability retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greatest of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service, reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday up to a maximum reduction of 25 percent; or

"2. If he became a member before October 1, 1965, \$54.00 multiplied by the number of years of his creditable service not in excess of 25 years; or

"3. If any law or part of any law pertaining to retirement under the employees retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance, two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by three percent for each year less than 25 years creditable service up to a maximum of 25 percent.

"c. The annual disability retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"1. Two and five thirty-seconds percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, \$64.80 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. Anything in this chapter to the contrary notwithstanding in the application of the provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state

policeman shall apply to all other creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

“(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY.—Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the board of control may, and upon his application shall, require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and, should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of control; provided, that these requirements relative to the medical examination shall not apply in the case of a state policeman retired for disability and who has attained age 52. Should the medical board report and certify to the board of control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board of control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary, together with this annuity exceeds the amount of his average final compensation.

“(c) DISPOSITION OF CONTRIBUTIONS AND ALLOWANCES UPON DEATH, ETC., OF MEMBER.

“(1) Should a member cease to be an employee except by death or by retirement under the provisions of this article, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand and, in addition to such payment, there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but



less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service;

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

“(3) In case of the death of a member not eligible for service retirement, after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3 as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board of control.

“(d) **OPTIONAL ALLOWANCES.**—With the provision that the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial

equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

“(1) Option 1.—If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of control;

“(2) Option 2.—Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement;

“(3) Option 3.—Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement; or

“(4) Option 4.—Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board of control.

“(e)(1) EFFECT OF RETURN TO ACTIVE SERVICE.—Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 52, his retirement allowance shall be suspended until he again withdraws from service and he shall not again become a member of the retirement system nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the board of control to allow him to again become a member of the retirement system. The board of control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any periods subsequent to the date of his reentry into active service and shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

“(2) Should any beneficiary on disability retirement be restored to active service before reaching age 52, he shall again become a member of the retirement system and shall make contributions.

"(f)(1) REDETERMINATION, ETC. OF CERTAIN ALLOWANCES.—All retirement allowance payments due on or after October 1, 1975, to members who retired prior to said date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a state policeman who retired on or before January 1, 1956, shall not be less than \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement of \$59.40 multiplied by the number of years of his creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision. Notwithstanding, any member who retired prior to October 1, 1975, and who chose either option 2 or option 3 may elect to receive a reduced allowance and to stipulate that the actuarial equivalent of the increase in his retirement allowance, which became effective on said date, be ascribed to his designated beneficiary; provided, that such member shall clearly express this intention by filing a written application to said effect with the secretary-treasurer of the employees' retirement system of Alabama prior to October 1, 1976.

"(2) Any person who, prior to October 1, 1963, was in receipt of a benefit pursuant to Act No. 376, approved November 6, 1959, but was not a member of the system at the time of retirement shall not be entitled to receive an annual retirement allowance from the system, effective October 1, 1971, as follows:

"a. If such person was retired on or before January 1, 1956, an amount equal to \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years.

"b. If such person was retired after January 1, 1956, an amount equal to \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"(3) Prior to October 31, 1975, any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivisions (1) or (2) of this subsection over the monthly allowance which he was receiving prior to October 1, 1975. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest

thereon, to the individual account of such beneficiary. Upon the death of such beneficiary the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representatives or to such person as he shall have nominated by written designation duly acknowledged and filed with the board of control."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:37 P.M.

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Act No. 89-641

S. 547—Senator Amari

### AN ACT

This bill expands the enforcement authority of the Medicaid Agency of Alabama to ensure that compliance with nursing home enforcement process reform provisions of the Omnibus Budget Reconciliation Act of the 1987 P.L. 100-203.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature recognizes the increasing population of our Senior Citizens and the importance of ensuring that each receives quality health care. The Medicaid Agency of the State of Alabama, hereinafter referred to as "Medicaid", shall have the power to enforce specific remedies to ensure compliance with OBRA.

**Section 2.** This Act shall be known as "The Long Term Quality Health Care Act."

**Section 3.** Any reference contained in this Act to federal law or compliance with federal law shall be a reference to compliance with the Omnibus Budget Reconciliation Act of 1987 P. L. 100-203, hereinafter referred to as "OBRA."

**Section 4.** Where referred to in this Act, facility shall mean intermediate care facility and skilled nursing facility licensed by the State Board of Health. More specific definitions shall be established by the department pursuant to the Alabama Administrative Procedures Act in order to comply with OBRA.

**Section 5.** Medicaid is designated as the agency responsible to ensure compliance with the facility reform enforcement process provisions of OBRA. All funds received pursuant to this Act shall be deposited with the treasury to credit of Medicaid and are hereby

continually appropriated for the purpose of carrying out the provision of this Act.

**Section 6.** Medicaid shall have such specific civil remedies of enforcement as is required by OBRA as a minimum state enforcement remedy. In order to ensure compliance with this Act, Medicaid rules and regulations and OBRA, Medicaid shall also specify criteria, as to when and how each of such enforcement remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies, and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. Such enforcement remedies and criteria shall be promulgated by rule or regulation pursuant to the Alabama Administrative Procedures Act no later than October 1, 1989. Medicaid shall not have the power to implement such specific enforcement remedies until Medicaid has also adopted specific criteria as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies to be used in the imposition of such remedies.

**Section 7.** This Act shall in no way supersede, replace or affect the licensing and certification responsibilities or other regulatory functions of the Health Department. All health care facilities licensing authority shall remain the responsibility of the Department of Public Health upon and after the effective date of this Act.

**Section 8.** All revenue collected pursuant to assessing civil penalties shall be deposited in the State Treasury to the credit of Medicaid in a trust fund known as the Resident Protection Trust Fund. This fund is hereby appropriated to Medicaid to be expended for the purpose of protecting the health and property of residents in nursing facilities found deficient and for assisting with relocating indigent residents when an action is taken under the auspices of this Act. This fund may be used for the maintenance of a facility pending correction of deficiencies or closure and to reimburse residents for personal funds lost. All funds in excess of \$50,000 may be used to provide technical assistance to facilities to return to full compliance with this Act.

**Section 9.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 11.** This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:38 P.M.

Act No. 89-642

S. 225—Senators Cabaniss, Dixon, Hilliard,  
Bennett, Hale, Foshee, Smith (J)  
and Bedsole

### AN ACT

To amend Sections 14-10-1 and 14-10-2, Code of Alabama 1975, relating to the discharge of state inmates, so as to allow the department of corrections to establish reasonable regulations determining those state convicts who shall receive discharge benefits, to change the definition of the clothing issue, to limit the application of the discharge benefit to once per offense, to allow state inmates to waive discharge benefits and to provide for documentation for identification.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 14-10-1, Code of Alabama 1975, is hereby amended to read as follows:

“§14-10-1.

“The department of corrections shall adopt reasonable regulations and criteria to determine those state inmates that require clothing and transportation upon the expiration of their term of custody, and before the expiration of their term of custody for each state inmate shall make a reasonable determination of whether or not the state inmate has ready and immediate access to clothing and transportation, that meet the requirements of this section. Each state inmate, who is determined to require clothing and transportation shall, at the expiration of his term of custody, be discharged from the custody and shall be furnished with clothes and with the least expensive mode of public transportation to the point where the inmate is to report for parole and probation supervision, or to the point of sentencing, to be paid from the department of corrections general operating funds. Clothing shall be of decent and reasonable quality for employment. The department of corrections shall provide minimum documentation for identification, including a social security card, necessary to obtain employment. Any inmate entitled to clothing and transportation may waive same, in which case the department of corrections shall not be required to make any payment in lieu of clothing and transportation. Each state inmate shall receive this clothing and transportation allowance only once per offense and

multiple offenses being served consecutively or concurrently shall for this purpose be considered one offense; but the department of corrections may at its discretion furnish transportation as noted above upon any discharge. If such inmate is charged with the commission of any other criminal offense, he must be delivered to the proper sheriff or officer to answer such charge."

**Section 2.** Section 14-10-2, Code of Alabama 1975, is hereby amended to read as follows:

"§14-10-2.

"In addition to the cash, transportation and clothes to be furnished to state inmates, as provided in Section 14-10-1, Code of Alabama 1975, upon their lawful discharge from custody, there shall be allowed and paid to each such inmate whose time in custody does not exceed five years the sum of \$10.00 in cash and to each such inmate whose time in custody exceeds five years the sum of \$10.00 plus an additional sum in cash at the rate of \$2.00 per annum for each additional year or fractional part of a year of not less than six months of actual time in custody after conviction. Said additional allowances and payments may be made as cash allowances and payments are made under existing laws. The department of corrections shall determine those state inmates who require these payments and shall use the regulations and criteria established in accordance with Section 14-10-1, Code of Alabama 1975, to make this determination. No payment shall be made to any state inmate whom the department of corrections has reasonably determined does not require such payment. Any state inmate may waive receipt of this payment. Each state inmate shall receive this payment only once per offense and multiple offenses being served consecutively or concurrently shall for this purpose be considered one offense."

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:39 P.M.

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Act No. 89-643

S. 152—Senators Bedford, Covington  
and Bailey

### AN ACT

To authorize the board of pardons and paroles to establish an intensive supervision program and to determine which persons under supervision shall be assigned to such

program; to authorize promulgation of regulations pertaining to conditions of supervision and collection of fees to defray the expense of this program.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) The board of pardons and paroles may, by whatever criteria it deems reasonable, classify certain persons under the supervision of its probation and parole officers as deserving of intensive supervision. Special conditions may be imposed on such persons, individually or as a class.

(b) The board is hereby authorized to charge each person participating in the intensive supervision program a fee for supervision costs, which shall not exceed 25% of their gross monthly income. The board shall, by regulation, establish criteria for determining the fee to be charged in each case. Such sums shall be retained by the board and placed in the probationer's upkeep fund in the state treasury to defray the expense of administering this program and is hereby appropriated therefor.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1989

Time: 5:40 P.M.

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Act No. 89-644

H. 54—Rep. Venable

### AN ACT

To create the Flexible Employee Benefits Board and to provide that such board, with the approval of the Governor, may establish a flexible benefit plan for State employees that will constitute a "Cafeteria Plan" under the Internal Revenue Code of 1986, as amended (Section 125 and any other applicable sections), that will provide employees a means of providing themselves medical and other benefits in a tax-effective manner by allowing employees a choice between cash and qualified benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Findings and Intent: The Legislature finds that private employers have provided their employees with flexible employee benefit plans which provide a savings both to the employer and the employee, and that the State of Alabama, its departments and agencies, may provide the same tax-effective benefits to its employees. It is, therefore, the intent of the Legislature to provide for the establishment of a "Cafeteria Plan" or flexible employee benefit plan in compliance with the Internal Revenue Code of 1986, with every effort being used to utilize the existing resources



of the State Comptroller to implement said Plan in conjunction with the Flexible Employees Benefits Board.

**Section 2.** Definitions: When used in this act, the following terms shall have the following meanings, unless the context clearly indicates otherwise.

Board—The Flexible Employees Benefits Board.

Employee—A person who is employed by the State of Alabama, its agencies, departments, or for a county health department, and who receives his compensation through means of a State warrant drawn upon the State Treasury, or by check drawn by the Alabama State Docks department, or from the Treasury of the Department of Mental Health and Mental Retardation, other than those employees covered by the federal Railroad Retirement Act.

Internal Revenue Code—The Internal Revenue Code of 1986, as amended.

Participating Employee—An employee who elects to participate in the flexible benefit plan and meets the requirements set forth in said plan.

Salary Reduction Agreement—A written agreement between a participating employee and a State agency, department, or county health department, whereby the employee agrees to reduce his salary by a stated amount, or an amount equal to the cost of benefits selected under a flexible employee benefit plan, and the State agency, department, or county health department agrees to contribute such amounts to cover the cost of benefits selected by the participating employee, including related administrative expenses.

**Section 3.** There is hereby created the Flexible Employees Benefit Board, which shall consist of the executive director of the Alabama State Employees Association, the members of the State Personnel Board and the director of finance. The individuals presently holding such offices shall constitute the initial membership of the board hereby created, and their successors in office, by virtue of assuming such office, shall succeed to membership on the board. The director of finance may designate a person to attend the meetings from time to time and to vote in his absence.

The board shall elect one of its members as chairman of the board and another as vice chairman and shall also elect a secretary who need not be a member of the board. The chairman, vice chairman and secretary shall serve as such officers at the pleasure of the board. A majority of the members of the board shall constitute a quorum and the affirmative vote of a majority of those members present shall be necessary for any action taken by the board. No vacancy in the

membership of the board shall impair the right of a quorum to exercise all rights and perform all duties of the board.

**Section 4.** The board, with the approval of the Governor, is authorized to establish a flexible employee benefit plan for State employees in compliance with Section 125 and any other applicable sections of the Internal Revenue Code. The flexible employee benefit plan may provide for payments or salary reductions for qualified benefits in accordance with Section 125 of the Internal Revenue Code, which presently include health insurance premiums, group life insurance, disability insurance, supplemental health and accident insurance, dependent care expenses, and such other types of employee benefits permitted under Section 125 and any other applicable sections of the Internal Revenue Code.

**Section 5.** In order to carry out the provisions of the flexible employee benefit plan, the board, the head of each department, agency, or county health department is authorized on behalf of the State to deduct or reduce from salary or wages amounts voluntarily designated by the employees pursuant to salary reduction agreements for purchasing benefits offered under the plan.

**Section 6.** The board may promulgate rules and regulations concerning the selection of benefits offered and such other rules and regulations as may be required for the effective administration of this act.

**Section 7.** In the event the board adopts and implements a flexible employee benefit plan which includes the offering of benefits in addition to health insurance premiums, the board is authorized to pay administrative expenses related to the plan, said funds being derived from general appropriation and/or by fees charged to the participating employees.

**Section 8.** The board is authorized to establish such funds in the State treasury as are necessary to administer said plan and may deposit as necessary in such fund or funds employee payments, amounts deducted pursuant to salary reduction agreements, and administrative fees and appropriations, if any. The board shall designate a custodian of said fund or funds who shall be authorized to make deposits into and payments therefrom in accordance with rules and regulations adopted by said board.

**Section 9.** The amount by which a State employee's salary or wage is reduced pursuant to a salary reduction agreement authorized by this act shall continue to be included as earnable compensation for the purpose of computing benefits under the State Employees Retirement System and/or the Teachers Retirement System.

**Section 10.** The board and the head of each department, agency, or county health department, and their employees shall not

incur any liability to any employee for errors or omissions in the performance of any agreement authorized by this act.

**Section 11.** Counties, municipal corporations, county school boards and other political subdivisions in this State shall continue to have the authority to adopt flexible benefit plans for their employees, in accordance with the Internal Revenue Code, upon the adoption of any necessary local enabling ordinance or resolution.

**Section 12.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part or parts which remain.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 9, 1989

Time: 5:45 P.M.

Act No. 89-645

H. 1028—Reps. Hall, Freeman, Brooks,  
Sanderford and Butler

### AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize the Madison County Commission to excavate human graves.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The Madison County Commission is hereby authorized with or without charge to provide for the excavating of human graves.

**Section 2.** This amendment shall be self-executing, but the legislature shall have the right and power to enact laws supplemental to this amendment and in furtherance of the purposes and objectives thereof, provided that such laws are not inconsistent with the express provisions of this amendment.

**Section 3.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 4.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 5.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Madison County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House April 25, 1989

Passed the Senate May 11, 1989

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Act No. 89-646

H.J.R. 148—Rep. Laird

### HOUSE JOINT RESOLUTION

CREATING A JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON THE STATE CAPITOL RENOVATION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint legislative oversight committee to study the renovation of the State Capitol. The committee shall be composed of 5 members of each house, membership to be as follows: one appointed by the Speaker of the House of Representatives, one appointed by the Lieutenant Governor, two appointed by the Governor, two elected by the House of Representatives, two elected by the Senate and the chairman and vice chairman of the Legislative Council. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets of the renovation of the State Capitol building, surroundings, grounds and appurtenances.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the 10th legislative day of the 1990 Regular Session. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out

of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed \$7,500.00.

Approved May 11, 1989

Time: 3:44 P.M.

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Act No. 89-647

H. 881—Rep. Blake

### AN ACT

Proposing an amendment to the Constitution of Alabama 1901, providing for disposal fees on out-of-state solid waste disposed of in St. Clair County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The St. Clair County governing body shall levy and impose a fee of not less than sixty dollars per ton on out-of-state solid waste, as defined by general law, disposed of at any commercial disposal site in the county. Said governing body is hereby authorized to implement such rules and regulations as it deems necessary to impose and collect such disposal fees and the proceeds of such fees shall be deposited in the county treasury to be expended for the general operations of the county.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county

election in St. Clair County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

## CONSTITUTIONAL AMENDMENT

Passed the House as amended April 11, 1989

Passed the Senate May 11, 1989

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Act No. 89-648

S. 20—Senator Denton

## AN ACT

To amend Sections 34-8-1 and 34-8-7, Code of Alabama 1975, to include certain swimming pool contractors in the definition of "general contractor" found within Title 34, Chapter 8, Code of Alabama 1975, and to exclude certain swimming pool contractors from the exemptions found within Section 34-8-7, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-8-1, Code of Alabama 1975, is hereby amended to read as follows:

"§34-8-1. (a) For the purpose of this chapter, a 'general contractor' is defined to be one who, for a fixed price, commission, fee or wage, undertakes to construct or superintend the construction of any building, highway, sewer, grading or any improvement or structure where the cost of the undertaking is \$20,000.00 or more, and anyone who shall engage in the construction or superintending the construction of any structure or any undertaking or improvements above mentioned in the state of Alabama, costing \$20,000.00 or more, shall be deemed and held to have engaged in the business of general contracting in the state of Alabama.

"(b) For the purpose of this chapter, a 'general contractor' is defined to include one who, for a fixed price, commission, fee or wage exceeding \$5,000.00, undertakes to construct, superintend the construction of, repair or renovate, any swimming pool, and anyone who shall engage in the construction, superintending of the construction, repair or renovation of any swimming pool in the state of Alabama, where the cost of the undertaking exceeds \$5000.00, shall be deemed and held to have engaged in the business of general contracting in the state of Alabama and shall be subject to the provisions of this chapter."

**Section 2.** Section 34-8-7, Code of Alabama 1975, is hereby amended to read as follows:

"§34-8-7. (a) The following shall be exempted from the provisions of this chapter: the practice of general contracting, as defined

in Section 34-8-1, by an authorized representative or representatives of the United States government, state of Alabama, incorporated town, city or county in this state, provided that such operation shall be under the supervision of a licensed architect or engineer; the construction of any residence or private dwelling; a subcontractor performing work under a properly licensed general contractor and a person, firm or corporation constructing a building or other improvements on his or its own property.

“(b) The aforementioned exemptions shall exclude a swimming pool contractor whether he be a ‘general contractor’ as defined in Section 34-8-1(b) or a subcontractor. Provided, however, a person, firm or corporation constructing a swimming pool on his or its own property shall be exempted from the provisions of this chapter.”

**Section 3.** This act shall become effective 90 days after its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:45 P.M.

Act No. 89-649

S. 21—Senator Bennett

### AN ACT

Relating to elections; to provide that certain counties shall conduct and complete purges of their voter registration lists by a certain date; to create and establish a state Voter Registration Advisory Board; to establish, operate and maintain a statewide voter registration file under a Director of Voter Registration as a service to county boards of registrars to assist them in updating their voter lists; to prescribe penalties for violations and to provide that this act shall be supplemental to existing election laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Every county that has not conducted and completed a purge of its voter registration list pursuant to the provisions of Act No. 84-389 since January 1, 1984, shall conduct and complete such purge no later than December 15, 1992. Only when every county has completed a voter registration list purge in compliance with the aforementioned mandate, the state of Alabama shall provide, through the Voter Registration Advisory Board and Director of Voter Registration as established herein, for the establishment, operation and maintenance of a centralized statewide voter registration file, effective no later than January 1, 1993, as a service to the board of registrars. Such file shall include the following information:

(1) The names, addresses, and voting locations of all registered voters of this state.

(2) The minutes of the meetings of the Voter Registration Advisory Board, as established under this act.

(3) Information such as may be deemed necessary by the Voter Registration Advisory Board or the Director of Voter Registration, as established herein, in order to ensure honesty, fairness, and integrity in the lists of qualified voters maintained by the various county Boards of Registrars.

As an oversight board for such system, there is hereby created and established a state Voter Registration Advisory Board composed of nine members, to be appointed as follows:

Three members by the Governor for terms of four years of which one must be Black.

Three members by the Commissioner of Agriculture and Industries for terms of four years of which one must be Black.

Three members by the State Auditor for terms of four years of which one must be Black.

Such appointments shall be made no later than September 30, 1989. Persons appointed to the Voter Registration Advisory Board shall have knowledge of the workings of voter registration and election laws and shall receive no compensation for their services other than reimbursement for travelling and other expenses actually incurred in the performance of their official duties. Such expenses shall be paid in the manner and amount as is provided for other state officers and employees and persons traveling on official business for state departments and agencies. Such appointees shall meet within thirty days after their appointments to select one of their number as chairperson who shall serve for two years. Thereafter, the Voter Registration Advisory Board shall elect a new chairperson every four years. The Voter Registration Advisory Board shall meet regularly at least once during each quarter and at such special meetings as may be called, from time to time, by the chairperson. Such appointees, if reappointed after the conclusion of their original terms, shall then serve for new terms of four years after the conclusion of their original terms and shall be eligible for reappointment. Whenever any vacancy occurs on the Voter Registration Advisory Board, for any reason, a successor shall be appointed by the original appointing state official, whether the Governor, Commissioner of Agriculture and Industries, or State Auditor, to serve on the Voter Registration Advisory Board for the remaining period of the unexpired term.

The Voter Registration Advisory Board shall have the following duties:

(1) To oversee the statewide voter registration file created in this act;



(2) To advise and consult with the Director of Voter Registration, as established in this act, concerning the statewide voter registration file maintenance system created in this act;

(3) To recommend to the Legislature and the Governor any needed improvements or legislation in regard to the statewide voter registration file;

(4) To make studies of conditions and problems pertaining to voter identification and registration in the state;

(5) To keep abreast of the latest developments in the field of voter identification and registration; and

(6) To promote honesty, fairness, and integrity in lists of qualified voters, the voter registration process, and the election process in the State of Alabama.

**Section 2.** The board of appointment provided for in Section 17-4-150 of the Code of Alabama 1975, shall unanimously select a Director of Voter Registration who shall serve at the pleasure of such board. Said Director, who shall serve as a member of the unclassified service of the state, shall be a confidential assistant to said board of appointment. Said Director, whose salary and benefits shall be set by the said board of appointment out of funds appropriated for such purpose, may be removed from such position at any time, with or without cause, by a unanimous vote if the said board of appointment, for any reason, revokes their appointment of the individual to such position. Said Director of Voter Registration shall work at the direction of the said board of appointment. Said Director shall have the following duties:

(1) To keep the minutes of the meetings of the Voter Registration Advisory Board, conduct the day-to-day business activities of the Voter Registration Advisory Board and give progress reports on such activities at its meetings;

(2) To serve as a liaison between the state, the board of appointment set forth in Section 17-4-150 of the Code of Alabama 1975, and the county boards of registrars on implementation of existing and future laws pertaining to voter registration;

(3) To provide to the county boards of registrars such information as would allow them to determine which names should be stricken by them from voter lists in accordance with state law;

(4) To provide assistance to the county boards of registrars in determining the names of any person or persons who are deceased, who are no longer qualified to vote in the election district where registered due to removal of his or her residence from the county in which he or she is registered, or from the state of Alabama, who

has been convicted of a disqualifying crime, or who is otherwise no longer qualified to vote as may be provided by law;

(5) To establish and maintain a statewide voter registration file including all registered voters of the state as such information is reported to the Director of Voter Registration by the boards of registrars or judges of probate of the various counties;

(6) To maintain all information furnished to the Director of Voter Registration relating to the inclusion or deletion of names from the lists of registered voters;

(7) To acquire by purchase, lease, or contract, the use of such equipment as is required to establish a fully centralized statewide voter registration file which will allow the computerization of all of the offices of the boards of registrars throughout the state upon legislative approval of funds for such computerization, the communication of necessary information between the boards of registrars and the director of Voter Registration; storage and instant comparison of names and other identifying information contained in voter lists, automatically identifying duplicate entries, produce in printed forms selected names or lists of names with identifying information, and do such other tasks as may be designated for it by the Director of Voter Registration;

(8) To promulgate procedures and prepare forms necessary to properly carry out such duties set forth herein;

(9) To secure from each county voter registration information and from any state department, agency, board, bureau, or commission, or from any other sources, information regarding the death, conviction of disqualifying crime, or removal of residence from the county or state of any registered voter;

(10) To furnish, at a reasonable charge and within 14 days of receipt of the request, voter registration lists limited to the names, addresses, and political subdivisions or voting places to candidates for election or political party nomination to further their candidacy, political party committees or officials thereof for political purposes only, incumbent officeholders to report to their constituents; nonprofit organizations which promote voter participation and registration for that purpose only; and for no other purpose and to no one else; failure to furnish the requested voter registration list within 14 days of receipt of request shall result in no charge to the requesting entity and said cost shall be absorbed by the Director of Voter Registration.

(11) To perform such duties pertaining to voter registration as may be assigned by the members of the board of appointment set forth in Section 17-4-150 of the Code of Alabama 1975; and

(12) To employ persons, subject to the state merit system laws and entitled to the rights of benefits thereunder, as may be necessary to carry out the provisions of this act.

**Section 3.** To continuously and automatically identify the names of persons to be purged from the voters' list, the appropriate state departments or agencies shall provide to the Director of Voter Registration, as such information is recorded by said departments, the names and identifying information set out below of any person age 18 or older who:

(1) Have died, with date of birth and social security number (if such number is known), last known address with county of residence, and date of death, as provided by the bureau of vital statistics of the state health department; and

(2) Have been convicted of a felony with date of birth and social security number (if such number is known), last known address with county of residence, and date of conviction, as provided by the Alabama Criminal Justice Information Systems.

**Section 4.** Any voter who fails to vote for four (4) years in his or her county shall have his or her name automatically struck from the voter registration list and placed on an inactive voter list by the local board of registrars. Once on such inactive list, said voter must reidentify with the local board of registrars in order to again have his or her name placed on the active voter registration list. Provided, however, that if a voter on the inactive list goes to his or her polling place to vote on an election day and identifies himself or herself to the poll's official responsible for the voter registration list, such voter shall be permitted to vote.

**Section 5.** a. In order to establish the statewide voter file and to ensure its continued accuracy, it shall be the duty of the boards of registrars, on forms or in a manner prescribed by the Director of Voter Registration:

(1) To provide said Director the name, social security number (if such number is known), date of birth, address, political subdivision or voting place of each registered voter in their respective counties within one month after a written request from said Director;

(2) To provide said Director the name, social security number (if such number is known), date of birth, address, political subdivision or voting place, place of previous registration, if applicable, and date of registration of each newly registered voter as such voter is registered;

(3) To provide to said director the name, social security number (if such number is known), date of birth, address, political subdivision

or voting place and date of reidentification of every voter who reidentifies, pursuant to Act No. 84-389.

b. Members of local boards of registrars and members of county commissions who fail to comply with the provisions of this act in their representative capacities as such registrars and commissioners shall be guilty of a Class A misdemeanor and punished as prescribed by law.

**Section 6.** All voter registration, voter reidentification, and the purging of voters from the voter roll shall be done pursuant to Act 84-389.

**Section 7.** The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating elections; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:46 P.M.

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Act No. 89-650

S. 27—Senator Figures

### AN ACT

To amend section 39-1-1, Code of Alabama 1975, which requires bonds from persons contracting with the state or political subdivisions thereof for public works, so as to alter said bonding requirements.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 39-1-1, Code of Alabama 1975, is hereby amended to read as follows:

“§39-1-1.

“(a) Any person, firm or corporation entering into a contract with the state or any county or municipal corporation or subdivision thereof in this state for the repair, construction or prosecution of any public buildings or public work, highways or bridges shall be required, before commencing such work, to execute a performance

bond, with penalty equal to 100 percent of the amount of the contract price, and, in addition thereto, another bond with good and sufficient surety, payable to the state, county or municipal corporation or subdivision letting the contract, in an amount not less than 50 percent of the contract price, with the obligation that such contractor or contractors shall promptly make payments to all persons supplying him or them with labor, materials or supplies for or in the prosecution of the work provided for in such contract and for the payment of reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on said bond.

“(b) Any person, firm or corporation that has furnished labor, materials or supplies for or in the prosecution or repair of any public building or public work, highways or bridges and payment or which has not been made shall be authorized to institute a civil action upon said bond in his or their name or names and to have their rights and claims adjudicated in such civil action and judgment entered thereon; provided, that no civil action shall be instituted on said bond until after 45 days' written notice to the surety thereon of the amount claimed to be due and of the nature of the claim. Such civil action shall be commenced not later than one year from the date of final settlement of said contract. The giving of said notice by registered or certified mail, postage prepaid, addressed to the surety at any of its places of business or offices shall be deemed sufficient under this section. In the event the surety or contractor fails to pay such claim in full within 45 days from the mailing of such notice, then such person or persons shall be entitled to recover of the contractor and surety, in addition to the amount of said claim, a reasonable attorney's fee, together with interest on such claim from the date of such notice.

“Every person or persons having a right of action on said last described bond as provided in this section shall, upon written application to the authority under the direction of whom such work has been prosecuted, setting out that labor, material, foodstuffs or supplies for such work have been supplied by him or them and that payment therefor has not been made, be promptly furnished a certified copy of said additional bond and contract. Such claimant shall be authorized to bring civil action on said bond in the county in which the work provided for in said contract is to be performed or in any county where the contractor or his surety does business, for his or their use and benefit against said contractor and his surety or either of them.

“In addition to any other legal mode of service, service of summons and other process in civil actions brought in the county where the work is let or done may be had on the contractor or the surety on the last described bond by leaving a copy of the summons

and complaint or other pleading or process with the director of the highway department, if the contract be a state highway contract, or with the executive officer of the city, town, board, commission or authority letting the contract or charged with the payment of the contract price, if the contract is not a state highway contract. The bond last described shall have a provision binding the principal contractor and surety to the mode of service above described and consenting that such service shall be the same as personal service on the contractor or surety.

"Immediately on service being made on the director of the highway department or executive officer of a city, town, board, commission or authority, it shall be the duty of such director or executive officer to immediately mail a copy of such process to the contractor and surety at the address given in the bond.

"(c) This section shall not require the taking of bond to secure contracts of less than \$5,000.00 in amount.

"(d) The contractor shall immediately after the completion of the contract give notice of said completion by an advertisement in some newspaper of general circulation published within the city or county wherein the work has been done for a period of four successive weeks. In no instance shall a final settlement be made upon the contract until the expiration of 30 days after the completion of same. Proof of publication of said notice shall be made by the contractor to the authority by whom the contract was made by affidavit of the publisher and a printed copy of the notice published. If no newspaper is published in the county where the work is done, the notice may be given by posting at the courthouse for 30 days, and proof of same shall be made by the probate judge or sheriff and the contractor.

"Provided, however, that the requirements of this subsection shall not apply to contractors performing contracts of less than \$10,000.00 in amount and the governing body of the contracting agency, so as to expedite final payment, shall cause notice of final completion of such contract to be published one time in a newspaper of general circulation, published in the county of the contracting agency, if any, and shall post notice of final completion on the agency's bulletin board for one week and shall require the contractor to certify under oath that all bills have been paid in full. Final settlement with such contractor may be made at any time after the notice shall have been posted for one entire week."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:46 P.M.

Act No. 89-651

S. 28—Senator Figures

## AN ACT

To create and establish the "Alabama Convention Facilities Act"; to authorize the legislature to appropriate certain sums from the state transient occupancy tax proceeds to the cities and counties building eligible facilities in order to assist in the payment of the debt service on bonds issued in connection with such facilities; to define the powers and responsibilities of the Director of Finance, the State Treasurer, and the cities and counties; to authorize payments, based on legislative appropriations; and to establish the "Convention Facilities Fund."

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act may be cited as the "Alabama Convention Facilities Act."

**Section 2.** The legislature hereby finds and determines that:

(a) The convention industry is a vital and beneficial industry for the State of Alabama and promotes the health, welfare, progress and physical and economic well-being of the people of this state.

(b) Adequate facilities are essential to the proper development of the meeting and entertainment industries. Adequate convention facilities are often not self-supporting so as to permit their financing with revenue bonds, but generate economic activity and stimulate business and commerce in the affected locality, and throughout the state, through increased demand for goods and services furnished by restaurants, hotels, places of entertainment as well as stores, shops and other establishments, and, as a consequence, they generate additional state and local tax revenues.

(c) It is in the interest of the state and its cities and counties, for the state to assist any city, county and entities or authorities thereof in financing convention facilities by remitting to the city, county or entities or authorities thereof a portion of the additional state transient occupancy tax proceeds paid by delegates.

**Section 3.** As used in this act, the following words and phrases shall have the following meanings respectively ascribed to them unless the context clearly indicates otherwise:

(a) "Bonds" means either general obligation bonds, limited obligation, or revenue bonds, or a combination thereof, issued after the effective date of this act by a city, county or entities or authorities thereof in connection with the financing, in whole or in part, of eligible facilities. The term "bonds" shall also refer to any bonds, warrants, or other certificates of indebtedness authorized under the laws of the State of Alabama.

(b) "City" means any city in this state.

(c) "County" means any county in this state.

(d) "Authority" means any authority created pursuant to Act No. 547, H. 1176, 1965 Regular Session.

(e) "Delegate" means a person attending a national or regional convention or meeting in this state.

(f) "Eligible facilities" means any convention facilities owned by a city, county or entities or authorities thereof in which the bonds for the facilities are issued after the effective date hereof, or such facilities for which the construction, or substantial expansion, reconstruction, or renovation is completed after the effective date of this act.

(g) "Estimated investment multiplier" means the number of times initial expenditures by delegates will be respent on additional goods and services in this state, as determined in Section 4, paragraph (h) of this act.

(h) "National or regional meeting" means a meeting, convention, show or other function which is intended primarily for delegates from outside the state. For a meeting to qualify as a regional or national meeting, it must meet the criteria as determined for regional or national meetings by the International Association of Convention and Visitor Bureaus or as set by the State Director of Finance.

(i) "Revenue bonds" means bonds issued by a city, county or authority which are limited or special, rather than general obligations of the issuer and which are not payable from the proceeds of an ad valorem tax.

(j) "State assistance payments" means payments to a city, county or entities or authorities thereof, under this act.

(k) "Convention facilities" means any property, real, personal or mixed, which is necessary or desirable in connection with a convention or meeting center, or similar facility, including without limitation, auditoriums, exhibition halls, facilities for food preparation and serving, parking facilities, and administrative offices in connection therewith.

(1) "State lodging tax" or "state transient occupancy tax" means the tax levied and collected pursuant to Section 40-26-1, Code of Alabama 1975.

**Section 4.** (a) Any city, county or entities or authorities thereof may apply to the State Director of Finance for state assistance payments for any eligible facilities. The city, county or entities or authorities thereof shall file an initial application with the Director



of Finance, which shall be in writing and shall describe: (i) the eligible facilities; (ii) the need for said facilities or the benefit therefrom; and (iii) the financing thereof, including the principal and interest payments for the bonds.

(b) The Director of Finance shall promptly review such initial application and shall notify the applicant of any additional information that may be necessary.

(c) After reviewing the initial application and upon reasonable notice to the applicant, the Director of Finance shall hold a public hearing on the application and maintain an official record of such hearing. He shall give notice of the time, place and purpose of the public hearing by publication one (1) time in a newspaper of general circulation within the boundaries of the applicant, not less than ten (10) days prior to the hearing.

(d) Within ninety (90) days after such public hearing, the Director of Finance shall: (i) determine whether the facilities described in the initial application are eligible facilities; (ii) notify the applicant of its determination; and (iii) if said facilities are determined to be eligible, approve such application and immediately certify the same to the Governor and Joint Legislative Council of the Alabama Legislature.

(e) After the initial application has been approved, the city, county or entities or authorities thereof must establish a base number of convention delegates which shall be computed by taking an annual average number of convention delegates attending national and regional meetings in said city, county or the entity's or authority's region over the previous five-year period. For purposes of determining such base number, each county, city or entity or authority thereof is hereby authorized to require each hotel or motel to report quarterly to it the total number of convention delegates in attendance for any national or regional convention or meeting which utilizes 50 or more room nights per meeting. The city, county or entity or authority thereof shall then file an annual application with the Director of Finance, which shall estimate: (i) the number of additional delegates, over and above the base average number, who will patronize the eligible facilities during the year; (ii) their estimated expenditures; (iii) the estimated additional state lodging tax revenues to be derived as a result of the expenditures (taking into consideration the investment multiplier); (iv) the expected additional expense, if any, to the state; and (v) any other matters prescribed by the Director of Finance. The descriptions required by (i), (ii), and (iii) shall be supported by statistical surveys satisfactory to the Director of Finance.

(f) The Director of Finance shall review all such annual applications, determine the amount of state assistance payments that would be required under such estimates, as determined in Section 4, paragraph (i) herein, and shall include in the proposed budget to the Governor, a line item appropriation in such amount, and certify such amount to the state legislature; provided, however, that in no fiscal year shall the entire amount budgeted for all eligible facilities exceed three million dollars (\$3,000,000).

(g) From the net proceeds of the state transient occupancy tax proceeds levied pursuant to Section 40-26-1, Code of Alabama 1975, the provisions of Section 40-26-20, Code of Alabama 1975, to the contrary notwithstanding, the legislature shall appropriate annually such amount as it deems necessary and desirable to satisfy all such projected state assistance payments for the next fiscal year. In the first full fiscal year after the effective date of this act, this amount shall not exceed \$500,000; in the second fiscal year after the effective date of this act, this amount shall not exceed \$1,000,000; in the third fiscal year after the effective date of this act, this amount shall not exceed \$2,000,000; in the fourth fiscal year after the effective date of this act, this amount shall not exceed \$3,000,000; and in no subsequent fiscal year shall the amount budgeted ever exceed \$3,000,000. Such amounts shall be credited to the Convention Facilities Fund established pursuant to Section 5 of this act.

(h) Each city, county or entity or authority thereof that has filed an annual application for assistance payments for the current fiscal year shall file a request for state assistance payments with the State Department of Finance within 30 days after the end of each quarter during said fiscal year. The quarterly request shall include the actual number of delegates that patronized eligible facilities during the preceding quarter, the average number of days attendance for such delegates, and signed documentation from an executive of each group or association attesting to the number of delegates and the average number of days attendance. The quarterly request shall also include the delegates' average expenditures, the delegates' total estimated expenditures, taking into consideration the investment multiplier, the total estimated additional state lodging tax revenues generated and the amount of state assistance payments requested by the city, county or entity or authority thereof for such quarter. The investment multiplier for each city, county or entity or authority thereof shall be determined by the Director of Finance with due consideration given to the opinion of the International Association of Convention and Visitor Bureau as to what the investment multiplier should be for such city, county or entity or authority thereof. The investment multiplier, as determined by the Director of Finance, shall be not greater than five (5).

(i) The amount of any state assistance payments to which each city, county or entity or authority thereof having filed an annual application hereunder shall be entitled, shall be an amount equal to two-thirds ( $\frac{2}{3}$ ) of the total sum of additional state transient occupancy tax revenue, if any, generated in connection with such city, county or entity's or authority's eligible facility for the preceding quarter, as determined in Section 4, paragraph (h) above. The maximum amount of any city, county or entity's or authority's state assistance payments for any quarter shall be limited to fifty percent (50%) of the bond debt service requirements, including principal and interest, for the quarter for which such state assistance payments have been requested.

(j) In any fiscal year in which approved state assistance payments exceed the maximum allowed under Section 5(g), all participating cities, counties and entities or authorities thereof shall receive a pro rata share of the amount they would be due to receive otherwise hereunder. In the event state assistance payments are set aside in the Convention Facilities Fund and are unclaimed at the end of the fiscal year, such remaining funds shall revert to the fund to which the taxes would have otherwise been originally deposited.

**Section 5.** (a) There is hereby established in the State General Fund a fund to be known as the Alabama Convention Facilities Fund.

(b) State assistance payments authorized by this act shall be made to the participating city, county or entity or authority thereof by the State Comptroller within 30 days after the Director of Finance approves said city, county or entity or authority quarterly request.

**Section 6.** State assistance payments to cities, counties, and entities or authorities thereof, authorized by this act, shall be terminated when the bonds issued to finance said city, county or entity's or authority's eligible facilities are fully retired or when, in the instance the bonds are refinanced, at the date the original issue of such bonds would have reached its final maturity. Any monies then held by the cities or counties or entities or authorities thereof, derived from state assistance payments, shall be returned to the state and deposited into the account in the state treasury to which such funds would have otherwise originally been deposited.

**Section 7.** Nothing in this act shall be construed as authorizing the pledging of the faith and credit of the State of Alabama or any of its revenues, either for the performance of the obligations of the state under this act or for the payment of any bonds. Nothing herein, or in any agreement entered into pursuant to this act, shall be construed to require the legislature to make an appropriation pursuant to this act. It is the intent of the Legislature that any appropriation

made pursuant to this act shall only be made from additional state lodging tax generated by eligible convention facilities as provided herein and that nothing herein, or in any agreement entered into pursuant to this act, shall be construed to un earmark any funds currently being collected and deposited in the General Fund pursuant to Section 40-26-20, Code of Alabama 1975.

**Section 8.** The payments provided for in this act shall apply only to debt service incurred pursuant to the provisions of this act. No payments or credits shall be allowed for any past debt service payments nor for any debt service payments beyond the date of the final interest and principal payment of the original issue of such bonds. Nothing herein shall restrict any city or county or entities or authorities thereof from refunding or refinancing such bonds within the original maturity schedule to take advantage of savings arising from such refunding or refinancing.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:47 P.M.

Act No. 89-652

S. 31—Senators Bedsole, Hale and Dixon

### AN ACT

To levy an assessment on forest lands for forest fire protection and prevention and to provide for penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature hereby declares that the threat of a spread of wildfire in our forest lands is a matter of major concern. The purpose of this act, therefore, is to provide forestry assistance and to secure the protection from, and the prevention of, forest fires. This act should be liberally construed to achieve these purposes.

**Section 2.** As used in this act, the following words shall have the meanings stated below, unless the context requires otherwise:

a. Commission. The Alabama Forestry Commission.

b. **Forest Land.** Any land which supports a forest growth or which is being used or reserved for any forest purpose and is classified as Class III forest property in Section 40-8-1 (b) (3), Code of Alabama 1975, but excludes land within the city limit of any incorporated municipality.

c. **Owner.** Any person who is engaged in and has an economic risk in the business of producing or causing to be produced, for market, forest or timber products.

d. **Person.** Any individual, partnership, corporation, company, society, or association, or other business entity.

e. **Lessee.** Any person who leases land for a period over five years for the purpose of producing or causing to be produced, for market, forest or timber products.

**Section 3.** The forestry and fire prevention program provided for in this act shall be administered by the Alabama Forestry Commission. The Commission shall have the authority to adopt such rules and regulations as it deems necessary to effectuate the purposes of this act.

**Section 4.** There is hereby levied in this state a finance charge, fee or assessment on forest land owned or leased by any person. Proceeds generated in each county shall be earmarked for use in the respective county where raised to provide for forest fire protection and similar forestry services within the county.

**Section 5.** The charge, fee, or assessment will be levied and collected in the same manner as ad valorem taxes are levied and collected. All revenues or monies collected under the provisions of this act shall be distributed by the office of the county tax collector, or person charged with the collection of taxes, to the Commission. The first assessment and collection of the levy provided for herein shall be during and for the fiscal (tax) year beginning October 1 next following the satisfaction of all prerequisites required herein for imposition of the levy herein provided.

**Section 6.** a. The commission shall authorize a referendum among owners or lessees of forest land to determine whether an assessment shall be levied upon said owners or lessees to offset, in whole or in part, the cost of forestry and forest fire protection programs.

b. The assessment levied against each owner or lessee under this act shall be ten cents (\$.10) per acre of forest land owned.

c. All affected owners or lessees of forest land shall be entitled to vote in any such referendum. The Commission shall determine

any questions of eligibility to vote and shall establish rules and regulations pertaining to the vote.

d. If a majority of those voting at the referendum vote in favor of the assessment, then the charge, fee or assessment shall be collected from the owners or lessees of forest land. The finance charge, fee or assessment levied by this act shall not be effective until a majority vote is obtained according to guidelines established by the Commission.

e. The finance charge, fee or assessment shall be due and payable at the same time as county ad valorem taxes. The assessments collected in each county under this act shall be promptly remitted to the Commission under such terms and conditions as the State Forester shall deem necessary to ensure that such assessments are used in a sound forestry program and for the prevention of and protection against forest fire.

f. With respect to any referendum conducted under the provisions of this article, the duly certified organization shall, not less than 30 days before the date of such referendum, cause to be published at least once a week for three weeks in a newspaper of county-wide circulation the date, hours, polling places and rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected, and the general purposes to which said amount so collected shall be expended and applied. Such notice shall be published by the certified organization through the medium of an established forestry publication and written notice therefore shall be given to each county agent and Alabama Forestry Commission supervisor in this state.

**Section 7.** The arrangements for the place, time and management of any referendum held under this act shall be under the direction of the Commission. The Commission shall bear all expenses incurred in conducting the referendum, including the furnishing of ballots and arranging for the necessary poll holders.

**Section 8.** In the event the referendum conducted under this act fails to receive the required number of affirmative votes, the Commission may call another referendum after the expiration of two years.

**Section 9.** a. An owner or lessee of forest land who fails to pay, upon reasonable notice, any assessment levied under this act shall, in addition to the assessment, be subject to a per acre penalty as established by the Commission's rules and regulations.

b. Any finance charge, fee, or assessment levied shall constitute a lien on the property against which it is levied. In case of default in the payment of such finance charge, fee, or assessment, the subject

land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes, provided, however, no sale of the subject land may occur within three years from the date of said default, and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for nonpayment of ad valorem taxes.

**Section 10.** Any county may, by local legislation, increase the amount of the finance charge, fee or assessment provided for in this act, but is hereby prohibited from decreasing said amount.

**Section 11.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** Assessments, fees, or other charges collected as authorized under authority hereof shall not be considered as a tax within the meaning of the constitution of Alabama of 1901, or any provision of the Code of Alabama 1975.

**Section 13.** This act shall become effective upon the adoption of an amendment to the Constitution of Alabama authorizing the provisions of this act.

Approved May 11, 1989

Time: 3:48 P.M.

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Act No. 89-653

S. 72—Senator Bailey

### AN ACT

To amend §2-27-11, Code of Alabama (1975), which provides for issuance of permits to purchase restricted use pesticides; to delete the requirement that said permits list the restricted use pesticides authorized to be purchased by the permit holder.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** §2-27-11, Code of Alabama (1975), is hereby amended to read as follows:

“§2-27-11. Use permits.

“(a) Each person shall obtain a pesticide-use permit from the commissioner before such person is eligible to purchase and use a restricted-use pesticide. Application forms for such permits shall be furnished by the commissioner and the permit shall be valid and effective for a period of time to be established by rules and regulations of the state board of agriculture and industries unless sooner revoked

by the commissioner for cause as specified in rules and regulations promulgated by the commissioner with approval of the state board of agriculture and industries.

“(b) Before any person is authorized to purchase and use restricted-use pesticides for application or use thereof, such person shall meet certain qualifications to be prescribed pursuant to rules and regulations of the commissioner approved by the state board of agriculture and industries. Such regulations shall be designed to satisfy the requirements of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and to determine whether the user or applicator of restricted-use pesticides can use and apply such products in a manner that will not endanger or be injurious to human health and nontarget animals, wildlife, vegetation, crops and water or be detrimental to the general environment and whether such user is familiar with methods of safe storage, handling, use, applications and disposal of such pesticides and pesticide containers so as to avoid hazardous effects that may result from any improper use, handling or application of such products.”

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:49 P.M.

Act No. 89-654

S. 117—Senators Dixon, Hale, Drinkard,  
Mitchem, Barron, Foshee,  
Bailey, Preuitt, Bennett, Ellis  
and Langford

## AN ACT

To amend Section 29-2-41 of the Code of Alabama 1975, relating to the Contract Review Permanent Legislative Oversight Committee, so as to provide further for such committee.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 29-2-41 of the Code of Alabama 1975, is hereby amended to read as follows:

“§29-2-41.

“Each member of the committee shall be entitled to regular legislative compensation, per diem and travel expenses for each day he or she attends a meeting of the committee, which shall be paid out of the funds appropriated to the use of the legislature, on warrants drawn on the state comptroller upon requisition signed by the committee’s chairman; provided, however, that members shall not receive additional compensation or per diem when the legislature is in session. The committee is hereby authorized to have one full-time secretary who shall work for the committee under the supervision of the clerk of the house or the secretary of the senate as the case may be. Such secretary shall be compensated at the same rate of pay as other secretaries employed by the legislature and such compensation shall be paid from funds appropriated for the use of the legislature. The department of examiners of public accounts shall furnish assistance and any relevant information to the committee. The committee shall have the responsibility of reviewing contracts for personal or professional services with private entities or individuals to be paid out of appropriated funds, federal or state, on a state warrant issued as recompense for those services. Each state department entering into a contract to be paid out of appropriated funds, federal or state on a state warrant which is notified by the committee is hereby required to submit to the committee any proposed contract for personal or professional services. Each contract must be accompanied by an itemization of the total cost estimate of the contract. The department may, in lieu of the proposed contract, submit to the committee a letter of intent to contract. Such letter of intent to contract shall indicate the contracting parties, the services to be performed, an itemization of the total cost estimate of the contract, and such other information as the department may deem pertinent to the committee review of the contract. The committee shall review and comment where necessary on any such contract or letter of intent to contract within a reasonable time not to exceed 45 days after the department has submitted said contract or letter of intent to contract to the committee. Any contract made by the state or any of its agencies or departments in violation of this section and without prior review by the committee of either the contract or the letter of intent to contract shall be void ab initio; provided however, that if the committee fails to review and comment upon any contract or letter of intent to contract within the aforementioned 45-day time period, such contract shall be deemed to have been reviewed in compliance with this section.

"Should the department elect to submit a letter of intent to contract in lieu of a proposed contract, as authorized in the preceding paragraph, the department shall be required to submit to the committee for its information the contract described in the letter of intent upon the execution of said contract.

"The committee shall have the power to issue subpoenas for any witnesses and to require the production of any documents or contracts it feels it needs to examine in the conduct of its duties.

"The committee shall organize itself at the first meeting and elect from among its membership a chairman and a vice-chairman. The committee shall hold regular meetings at least once each month, said regular meetings to be held during the first week of each month."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:50 P.M.

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Act No. 89-655

S. 135—Senator Langford

### AN ACT

To amend Section 11-81-21 of the Code of Alabama 1975 to add thereto other securities in which municipal or county funds not presently needed for other purposes may be invested.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-81-21, Code of Alabama 1975, is hereby amended to read as follows:

"Section 11-81-21. Investment of municipal or county funds in obligations in which sinking funds may be invested.

"Any municipal funds or county funds not presently needed for other purposes may be invested in any obligations in which sinking funds are now authorized to be invested, pursuant to section 11-81-19, and in addition in any of the following:

(a) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America;

(b) Obligations of any of the following federal agencies, which obligations represent the full faith and credit of the United States of America;

- (i) Farmers Home Administration,
  - (ii) General Services Administration,
  - (iii) U.S. Maritime Administration,
  - (iv) Small Business Administration,
  - (v) Government National Mortgage Association (GNMA),
  - (vi) U.S. Department of Housing and Urban Development, (HUD)
- and
- (vii) Federal Housing Administration (FHA)

(c) U.S. Dollar denominated deposit accounts and certificates of deposit with banks or savings institutions organized under the laws of the United States or any state thereof in amounts which are fully insured to the holder (now up to the \$100,000 maximum coverage) by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation ('insured deposits'), and in amounts in excess of the insured deposits provided that all amounts in excess of the insured deposits shall be secured at all times by a perfected lien or security interest in pledged collateral consisting solely of security of the type described in paragraphs (a) and (b) above and obligations of the Federal National Mortgage Association, Federal Home Loan Banks, and of the Federal Farm Credit System and having a market value taking into account any accrued interest thereon which is not less than the principal of and the then accrued interest on the deposit accounts required to be secured thereby. The pledged collateral shall be deposited exclusively for the purpose of such pledge, with and held by a trust department of a bank organized under the laws of this state or under the laws of the United States having their principal place of business in this state, or a federal reserve bank or branch thereof located in this state or a federal home loan bank serving savings institutions located in this state;

- (d) Pre-refunded public obligations, defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable at the option of the obligor prior to maturity or as to which irrevocable notice has been given by the obligor to call on the date specified in the notice, and (ii) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (a) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (iii)

which fund is sufficient, as verified by an independent certified public accountant, to pay principal of and interest and redemption, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (i) of this paragraph, as appropriate, and (iv) which are rated, based on the escrow, in the highest rating category of Standard & Poor's Corporation and Moody's Investors Service, Inc., or any successors thereto.

"The terms 'municipal funds' and 'county funds' as used in this section shall include all general, special, permanent, trust and other funds, regardless of source or purpose, held or administered by any county, city or town, or by any officer or agency thereof, in the state of Alabama.

"Investments of municipal funds or county funds shall be made by the officer or agency controlling their disposition. Such county, city or town, or official or agency thereof, may at any time sell such obligations purchased pursuant to this section, and the money received from such sale and the interest and profits on such investment shall be credited to the fund from which the investment was made. Any such obligation may be deposited for safekeeping with any bank, trust company or savings and loan association organized either under the laws of the state of Alabama or of the United States."

**Section 2.** This act shall become effective upon its adoption and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:51 P.M.

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Act No. 89-656

S. 187—Senators Bailey and Bedford

# AN ACT

To amend sections 26-16-30 and 26-16-32, Code of Alabama 1975, relating to the Children's Trust Fund, so as to provide further for the administration of the Fund through the establishment of the Child Abuse and Neglect Prevention Board Operations Fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 26-16-30 and 26-16-32, Code of Alabama 1975, are hereby amended to read as follows:

"§26-16-30.

"(a) The children's trust fund is created as a separate fund in the state treasury. The function of the Children's Trust Fund will

be to serve as a permanent trust pursuant to Section 26-16-8 and as an investment account for the earnings and funds received by the Child Abuse and Neglect Prevention Board pursuant to Sections 26-16-8, 26-16-31 and 26-16-30(e).

“(b) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under this article and any amounts received under section 26-16-8 of the Child Abuse and Neglect Prevention Act.

“(c) The state treasurer shall invest trust fund money in the same manner as surplus funds are invested pursuant to section 36-17-18. Earnings shall be credited to the trust fund.

“(d) A separate revenue trust account in the state treasury is created to be known as the Child Abuse and Neglect Prevention Board Operations Fund which will serve as the administrative fund for the Children’s Trust Fund and the Child Abuse and Neglect Prevention Board. All state General Fund or Special Educational Trust Fund appropriations designated for the Children’s Trust Fund or Child Abuse and Neglect Prevention Board shall be deposited directly into this fund. Such fund shall be disbursed only by warrant of the state comptroller, upon itemized vouchers, approved by the executive director or the chairman of the board; provided, however, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and only in such amounts as appropriated by the Legislature.

“(e) One half of the funds received each year through the income tax refund designation program established in Section 26-16-31, and other amounts as specified by motions passed by the Child Abuse and Neglect Prevention Board, are not available for transfer into the Operations Fund and shall become a permanent part of the Children’s Trust Fund. All other funds received by the trust fund after September 30, 1988, including earnings credited to the Children’s Trust Fund after September 30, 1987, and one half of fund received each year through the income tax refund designation program shall be available for transfer to the Operations Fund. The executive director or chairman of the board is authorized to transfer all eligible funds from the Children’s Trust Fund into the Operations Fund for the purpose of disbursing such funds in accordance with the provisions of this chapter.

“(f) The primary purpose of the Children’s Trust Fund and the Child Abuse and Neglect Prevention Board Operations Fund is to encourage professional persons and groups to recognize and deal with problems of child abuse and neglect; to make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse

and neglect; and to encourage the development of community prevention programs. To these ends the fund shall be expended only as provided in this chapter, the Child Abuse and Neglect Prevention Act, or other law specifically regulating expenditures therefrom."

"§26-16-32.

"(a) Each year that the refund designation program established in section 26-16-31(a), above, is in effect, the commissioner of the department of revenue shall transfer to the children's trust fund an amount equal to the total amount designated by individuals to be paid to the fund under this article, less an amount, equal to not more than three percent of the total of such funds then collected, for the additional cost incurred by the department of revenue in collecting and handling such funds which shall be deposited in the general fund of the state treasury for the use of the revenue department. Such deposits shall be made not less than quarterly commencing with the first day such funds are collected from the taxpayer.

"(b) Moneys contained in the children's trust fund are continuously appropriated to the child abuse and neglect prevention board for the purposes set out in section 26-16-30(f) of this article. Such funds shall be supplemental to any and all other appropriations heretofore or hereafter made to the child abuse and neglect prevention board. No provision of this article shall be construed to be in lieu of annual appropriations.

"(c) The child abuse and neglect prevention board shall have access to and control of the moneys in said fund and shall be authorized to distribute such funds only for the purposes of this article and section 26-16-9 of the Child Abuse and Neglect Prevention Act (The act proposed by House Bill No. 57 of the 1983 regular session of the Alabama legislature)."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:52 P.M.

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Act No. 89-657

S. 191—Senator Rice

## AN ACT

To authorize the Alabama Medicaid Agency to contract with a central source, for the procurement of prescription eyewear for qualified sight impaired Medicaid recipients, for periods not to exceed three years.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Contracts for the procurement of prescription eye-wear for recipients of the Alabama Medicaid program which are competitively bid may be awarded to the bidder whose proposal is the most advantageous to the state for periods not to exceed three years taking into consideration cost factors, program stability factors, technical factors including understanding of program requirements, management plan, excellence of program design, key personnel, corporate or company resource and designated location, and other factors including financial condition and capability of the bidder, corporate experience and past performance and priority of the business to insure the contract awarded is the best for the purposes required. Each of these criteria shall be given relative weight value as designated in the invitation to bid. Responsiveness to the bid shall be scored for each designated criteria. If, for reasons cited above, the bid selected is not from the lowest bidding contractor, the Alabama Medicaid agency must state its reasons for not recommending award to the low bidder to the awarding authority prior to the final awarding of any such contract; provided that such contracts shall comply in all other respects with the provisions of the Alabama Competitive Bid Law as codified in Sections 41-16-20 through 41-16-32 of the Code of Alabama 1975. As used in this Act, contracts for the procurement of prescription eye wear shall not include professional examination of the eye conducted for the purpose of measuring visual acuity and prescribing corrective lenses. The provisions of Section 38-1-2 shall remain in full force and effect.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:53 P.M.

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Act No. 89-658

S. 216—Senator Foshee

### AN ACT

To amend Section 37-6-3(10) of the Code of Alabama of 1975 to clarify the power of rural electric cooperatives to acquire minority interests in electric generating plants,

transmission and distribution lines or systems in common with others, to own undivided interests in facilities, to contract for the construction, operation and maintenance of facilities by other parties and allocate among parties to the contract various costs and expenses and specify entitlement of joint owners to production capability or utilization of facilities, to alter the normal rights of joint owners of property through provisions in such agreements and delegate powers and duties in connection with construction, operation, ownership and disposal of facilities to other parties to such agreements, to contract for the purchase and ownership of project capability or amounts of electric capacity and energy from a project, whether such project is complete or operable or operating, to agree to pay expenses and costs as established by a project manager, including increased costs to cover defaults by project participants and to authorize agreements requiring payments by a cooperative of an unconditional nature, irrespective of whether any electricity or other service is received in return and irrespective of whether the cooperative owns an interest in any tangible physical property.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-6-3 of the Code of Alabama of 1975 is hereby amended to read as follows:

“Section 37-6-3. Enumerated powers.

“A cooperative shall have the power:

“(1) To sue and be sued in its corporate name.

“(2) To adopt a corporate seal and alter the same at its pleasure.

“(3) To generate, manufacture, purchase, acquire and transmit electric energy and to distribute, sell, supply and dispose of electric energy to its members, to governmental agencies and political subdivisions and to other persons not in excess of 10 percent of the number of its members; provided, however, that should a cooperative acquire any electric facilities dedicated or devoted to the public use, it may, for the purpose of continuing service and avoiding hardship and to an extent which, together with all other persons served by the cooperative on a nonmember basis, shall not exceed 40 percent of the total number of persons served by the cooperative, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members, and, provided further, that such nonmembers shall have the right to become members upon nondiscriminatory terms.

“(4) To process, treat, sell and dispose of water and water rights and to purchase, construct, own and operate water systems and to supply water services.

“(5) To purchase, construct, own and operate sanitary sewer systems and supply sewer services.

“(6) To purchase, construct, own and operate systems and facilities for providing television reception services through the use of television program decryption equipment and subscriber owned, leased



or rented satellite dishes, but such equipment shall not be utilized for the bidirectional transmission of voice, data or other signal.

“(7) To make loans to persons to whom electric energy, water, sanitary sewer or television reception services through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, wiring their premises and installing therein electric, water, sanitary sewer and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character or to make loans to or assist such persons in constructing, maintaining and operating electric refrigeration plants, and, in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electric, water, sanitary sewer, plumbing, and television reception services through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes, fixtures, appliances, apparatus and equipment.

“(8) To accept, or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor. To make loans to persons to whom electric energy, water and sanitary sewer service is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in constructing, maintaining and operating electric refrigeration plants.

“(9) To become a member of one or more other cooperatives and to acquire, hold and dispose of and exercise any power or right with respect thereto or with respect to the shares or other interests in, or obligations of other public or private domestic or foreign corporations, associations, partnerships or individuals.

“(10) To construct, purchase, take, receive, lease as lessee or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, water lines, sanitary sewer lines, water systems and sanitary sewer systems, television reception equipment through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes, lands, buildings, structures, dams, plants and equipment and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative was organized or in which it subsequently lawfully engages.

“Electric generating plants, transmission and distribution lines or systems as referred to in this Section 3 shall include any arrangement or agreement for the purchase, exchange or transmission

of electric power, capacity or energy, whether sole or as joint owner of all or any part in common with one or more persons as agent, or as principal, and shall include ownership of an undivided interest in facilities with any other person. Any agreement with respect to such facilities may include provisions for the construction, operation and maintenance of electric generation, distribution or transmission facilities by any one or more of the parties to the agreement or by any other means which may be determined by the parties thereto, and may include provisions for a method or methods of determining and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements, improvements, retirement and disposals with respect to the facility and the entitlement of joint owners to the production capability or utilization of the facilities including allocation of costs in the event of default on the part of one or more joint owners and the payment of all such costs as provided in the agreement. Any such agreement shall supersede any provision of law to the contrary relating to the rights of joint owners of property and relating to the use of property, title to which is held by the cooperative jointly with others and, notwithstanding anything contained in any other law to the contrary, pursuant to the terms of any agreement authorized in this subdivision, the cooperative may delegate any and all of its powers and duties with respect to the construction, operation, maintenance, renewal, replacement, improvement, retirement or disposal of electric generation, distribution or transmission facilities to the party or parties acting as agent, managing partner, managing co-owner or the party otherwise given such responsibility or authority pursuant to the agreement and all actions taken by such other party in accordance with the provisions of the agreement may be binding upon the cooperative without further action or approval by the cooperative. Such agreements may provide for purchase, acquisition and ownership of project capability or amounts of electric capacity and energy, if any, which a project is capable of producing at any particular time (including times when the project is incomplete or not operable or not operating or the operation thereof is suspended, interrupted, interfered with, reduced or curtailed in whole or in part for any reason whatsoever) and may provide for the payment of proportional shares of costs of the project, including debt service and deposits for reserves and contingencies as directed or established by the project manager and including increases in such payments to cover project costs upon the default of any participant and to enter into agreements requiring payments by the cooperative of an unconditional nature, irrespective of whether any electricity or other service is received in return for such payments and irrespective of whether the cooperative acquires any ownership interest in any tangible physical property.

“(11) To purchase or otherwise acquire and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge,

hypothecate or otherwise dispose of or encumber franchises, rights, privileges, licenses, rights-of-way and easements.

“(12) To borrow money and otherwise contract indebtedness and to issue notes, bonds and other evidences of indebtedness therefore, and to secure the payment thereof by mortgage, pledge, deed of trust or any other encumbrance upon any or all of its then owned or after acquired real or personal property, assets, franchises, revenues or income.

“(13) To make any and all contracts necessary or convenient for the full purpose of the powers in this chapter granted, including, but not limited to, contracts with any person, federal agency or municipality for the purchase or sale of electric energy, water, water and sanitary sewer services or television reception services through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes and in connection with any such contract to stipulate and agree to such covenants, terms and conditions as the board of trustees may deem appropriate, including covenants, terms and conditions with respect to resale rates, financial and accounting methods, services, operation and maintenance practices and, consistent with section 37-6-20, the manner of disposing of the revenues of the properties operated and maintained by the cooperative.

“(14) To construct, acquire, maintain and operate electric transmission and distribution lines, water lines, sewer lines and television reception systems and equipment through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes along, upon, under and across all public thoroughfares, including without limitation all roads, highways, streets, alleys, bridges and causeways and upon, under and across all publicly owned lands; provided, however, that the respective authorities having jurisdiction thereof shall consent thereto.

“(15) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric generating, transmission or distribution lines or systems; and, in the construction and operation of water systems and sanitary sewer systems and television reception systems through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes, to exercise the power of eminent domain in the manner provided in Title 18.

“(16)a. A cooperative shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding,

whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the cooperative), by reason of the fact that he is or was a director, trustee, officer, employee or agent of the cooperative, or is or was serving at the request of the cooperative as a director, trustee, officer, partner, employee or agent of another cooperative, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the cooperative or other entity, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the cooperative, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

b. A cooperative shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the cooperative to procure a judgment in its favor by reason of the fact that he is or was a director, trustee, officer, employee or agent of the cooperative, or is or was serving at the request of the cooperative as a director, officer, partner, employee or agent of another cooperative, corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the cooperative or other entity and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the cooperative or other entity unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which court shall deem proper.

c. To the extent that a director, trustee, officer, employee or agent of a cooperative or other entity has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs a. and b. of this subdivision, or in defense

of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

d. Any indemnification under paragraphs a. and b. of this subdivision (unless ordered by a court) shall be made by the cooperative only as authorized in the specific case upon a determination that indemnification of the director, trustee, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs a. and b. of this subdivision. Such determination shall be made (i) by the board of directors or trustees by a majority vote of a quorum consisting of directors or trustees who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (ii) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors or trustees so directs, by independent legal counsel in a written opinion, or (iii) by the shareholders.

e. Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the cooperative in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in paragraph a. of this subdivision upon receipt of an undertaking by or on behalf of the director, trustee, officer, employee or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the cooperative as authorized in this section.

f. The indemnification authorized by this section shall not be deemed exclusive of and shall be in addition to any other right (whether created prior or subsequent to the enactment of this section) to which those indemnified may be entitled under any statute, rule of law, provisions of articles of incorporation, bylaw, agreement, vote of members or shareholders or disinterested directors or trustees, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, trustee, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

g. A cooperative shall have power to purchase and maintain insurance on behalf of any person who is or was a director, trustee, officer, employee or agent of the cooperative, or is or was serving at the request of the cooperative as a director, trustee, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him

and incurred by him in any such capacity or arising out of his status as such, whether or not the cooperative would have the power to indemnify him against such liability under the provisions of this section.

“(17) To conduct its business and exercise any or all of its powers within or without this state.

“(18) To adopt, amend and repeal bylaws.

“(19) To do and perform any and all other acts and things and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purposes for which the cooperative is organized or in which it subsequently lawfully engages.

“(20) To provide its members and other persons services solely for the reception of television programming through the use of television program decryption equipment and subscriber owned, leased or rented satellite dishes, but such equipment shall not be utilized for the bi-directional transmission of voice, data or other signal.

**Section 2.** The provisions and applications of this Act shall be deemed to be severable and a declaration of invalidity as to any other part or as to any application thereof to any person or circumstances shall not render invalid the parts or applications which remain.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved May 11, 1989

Time: 3:54 P.M.

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Act No. 89-659

S. 217—Senator Hand

### AN ACT

To amend Section 41-23-22, Code of Alabama 1975, relating to the criteria and number of enterprise zones, so as to increase the authorized number from 25 to 27.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-23-22, Code of Alabama 1975, is hereby amended to read as follows:

“§41-23-22.

“(a) The department shall establish criteria for qualifications of enterprise zones. These criteria shall not be in conflict with any

provisions of federal enterprise zone legislation that may be enacted for enterprise zones which apply for federal designation. The department shall give consideration to the following:

- “(1) Unemployment.
- “(2) Poverty rate.
- “(3) Per capita income.
- “(4) Migration.
- “(5) Number of residents receiving public assistance.

“(b) There initially shall be 10 enterprise zones within the state of Alabama, excluding any zones established in Birmingham [pursuant to Act No. 83-142, S. 18 of the 1983 Second Special Session (Acts 1983, p. 150)] and Prichard [pursuant to Act No. 83-676, S. 506 of the 1983 Regular Session (Acts 1983, p. 1065)], and Montgomery [pursuant to Act No. 86-201, H. 538 of the 1985 Regular Session (Acts 1986, p. 264)]. Within 18 months after passage of this article, additional geographic areas shall be targeted as enterprise zones. There shall not be more than 27 enterprise zones established in Alabama.

“(c) Each zone shall not exceed a maximum of 10,000 acres.

“(d) The maximum life of a zone shall not exceed 15 years.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:55 P.M.

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Act No. 89-660

S. 224—Senator Hale

## AN ACT

To amend Section 30-3-61, Code of Alabama 1975, which provides for the implementation of income withholding to satisfy support obligations, so as to authorize immediate income withholding on any order entered at the request of the department, except in cases where good cause not to do so is determined by the court or there is an agreement between parties not to have immediate implementation of income withholding, and to provide for the implementation of income withholding in such cases when immediate income withholding is not implemented.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 30-3-61, Code of Alabama 1975, is hereby amended to read as follows:

“§30-3-61.

“(a) Any provision of section 8-5-21, to the contrary notwithstanding, any original decree, judgment or order issued by a court of this state for the payment of support, any decree or judgment entered pursuant to a petition to modify an original decree or award of support, any decree or judgment of contempt of court for failure to pay support as previously ordered by a court of this state or any decree or judgment for criminal or civil nonsupport shall include as a separate section a withholding order subject to subsection (c) of this section directing any employer of the obligor to withhold and pay over to the clerk of the court or the department of human resources, or its designee, whichever is appropriate, out of income due or to become due the obligor at each pay period, an amount ordered to be paid for support. The withholding order shall not under any circumstances be waived by mutual agreement of the parties to the case.

“(b) The withholding order shall recite the amount of the obligor’s continuing support obligation and shall require the withholding of the support obligation from the income due or becoming due to the obligor at each pay period and payment to the clerk of the court out of which the order is issued or the department or its designee, whichever is appropriate. Provided, if the obligor’s support obligation is ordered to be paid monthly and the obligor’s pay periods are at more frequent intervals, the employer may withhold at each pay period an amount cumulatively sufficient to equal the total monthly support obligation and pay over to the clerk of the court or the department or its designee, once each month, the total monthly support obligation. The withholding order shall also recite the duty of the obligor and the employer to notify the collecting agency of any change in employment or termination of income of the obligor as provided in this article.

“(c) A withholding order issued pursuant to this section shall be a continuing order and shall remain in effect and be binding upon any employer upon whom it is served until further order of the court. Where any order of support is entered or modified at the request of the department, the withholding order issued therewith pursuant to this section shall be served immediately upon the obligor’s employer and shall take effect immediately; except such immediate withholding shall not be implemented in any case where one of the parties demonstrates, and the court finds, there is good cause not to require immediate income withholding, or a written agreement is reached



between both parties which provides for an alternative arrangement; in such cases income withholding shall be implemented if the absent parent fails to make payments in an amount equal to one month's support obligation, or the absent parent requests immediate withholding, or the payee or the department requests that withholding begin and the absent parent has failed to make a payment or payments on the date(s) due. A withholding order issued pursuant to this section not at the request of the department shall not be served on the employer and shall not take effect unless the obligor becomes delinquent in a dollar amount equal to one month of support payments, or the obligor requests that the withholding order take effect at an earlier date, or the court otherwise orders that the withholding order take effect at an earlier date.

“(d) In the event the obligor becomes delinquent in the support payments in a dollar amount equal to one or more month's support obligation, or a withholding order entered at the request of the department was not immediately served upon the employer, or at such time as the obligor wishes to have the income withholding order served upon his employer, the obligee or the obligor may file with the clerk of the court a sworn affidavit stating the appropriate basis upon which service of the income withholding order is now being sought. Upon the filing of the affidavit and the payment of a docket fee in the same amount as is prescribed by section 12-19-75 for the filing of a garnishment proceeding, a copy of the withholding order issued pursuant to this section shall be served upon the employer pursuant to the Alabama Rules of Civil Procedure. A copy shall be served upon the obligor by first class mail. Provided, the cost of such filing shall not be prepaid if, upon the filing of an affidavit of substantial hardship, the obligee or obligor is found by the court to be incapable of prepaying said cost or if the affidavit is filed by the department or as representative of the department, but in such cases the cost of such filing shall be taxed as costs against the obligor at the time service of the order is requested and shall be withheld from the obligor's first pay period subjected to the income withholding order. Additionally, when service upon the employer is requested by means of certified mail, the actual cost of such service shall be prepaid in all cases at the time the service is requested.”

**Section 2.** This act shall become effective on the first day of November of 1990.

Approved May 11, 1989

Time: 3:56 P.M.

Act No. 89-661

S. 281—Senators Drinkard, Bedsole,  
Baron and Dixon

## AN ACT

Relating to the operation of motor vehicles and the rules of highway and traffic safety; to amend Sections 32-5-76 and 32-5A-60 of the Code of Alabama 1975, relating to rules of the road so as to further prohibit the spilling, depositing or throwing of foreign materials or litter from a motor vehicle onto a highway, road, street or public right-of-way; to provide for the use of the uniform traffic citation in certain instances for violations; and to provide further for penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 32-5-76 and 32-5A-60, Code of Alabama 1975, are hereby amended to read as follows:

“§32-5-76.

“(a) Whoever willfully and knowingly operates, owns or causes to be operated on any public highway, road, street or public right-of-way a motor vehicle so loaded with gravel, rock, slag, bricks, in such manner or in such condition that the contents of the vehicle spill out and causes it to be deposited upon the highway, road, street or public right-of-way is guilty of a Class C misdemeanor and upon conviction shall be fined not more than \$500.00, pursuant to Section 13A-7-29, Code of Alabama 1975, the criminal littering statute.

“(b) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

“(c) Whoever willfully and knowingly operates, owns or causes to be operated on a public highway, road, street or public right-of-way, a motor vehicle in such manner or in such condition that litter is caused or allowed to be deposited upon the highway, road or street or public right-of-way, is guilty of a Class C misdemeanor and upon conviction shall be fined not more than \$500.00, pursuant to Section 13A-7-29, Code of Alabama 1975, the criminal littering statute.”

“§32-5A-60.

“(a) No person shall throw or deposit upon any highway road or street or public right-of-way any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

“(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

“(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

“(d) No person shall throw litter or allow litter to be thrown from a motor vehicle onto or upon any highway road or street or public right of way.

“(e) The uniform traffic citation may be used for any violation of this section.

“(f) ‘Litter’ as used in this section is the same as defined in Alabama Code Section 13A-7-29.

“(g) Notwithstanding the provisions of Section 32-5A-266, any person violating the provisions of this Section shall be guilty of a Class C misdemeanor and upon conviction shall be fined not more than \$500.00, pursuant to Section 13A-7-29, Code of Alabama 1975, the criminal littering statute.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:57 P.M.

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Act No. 89-662

S. 368—Senator Parsons

### AN ACT

To require disclosure of the use and identification of nonoriginal equipment manufacturer after market crash parts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act, the following words and phrases shall have the following meanings respectively ascribed to them, unless the context clearly indicates otherwise:

(a) “Aftermarket crash part” means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

(b) "Installer" means an individual who performs the work of replacing or repairing parts of a motor vehicle.

(c) "Insurer" includes an insurance company and any person authorized to represent the insurer with respect to a claim and who is acting within the scope of the person's authority.

(d) "Nonoriginal equipment manufacturer aftermarket crash part" means an aftermarket crash part made by any manufacturer other than the original vehicle manufacturer or his supplier.

(e) "Repair facility" means a motor vehicle dealer, garage, body shop, or other commercial entity which undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.

**Section 2.** Any nonoriginal equipment manufacturer aftermarket crash part manufactured or supplied for use in this state on or after January 1, 1990, shall have affixed thereto or inscribed thereon the logo, identification number, or name of its manufacturer. Such manufacturer's logo, identification number, or name shall be visible after installation whenever practicable.

**Section 3.** In all instances where nonoriginal equipment manufacturer aftermarket crash parts are used in preparing an estimate for repairs, the written estimate prepared by the insurer and repair facility shall clearly identify each such part. A disclosure document attached to the estimate shall contain the following information in no smaller than ten-point type:

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. THE AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:58 P.M.

Act No. 89-663

S. 419—Senator Smith (J)

## AN ACT

To amend Section 12-17-61, Code of Alabama 1975, which provides for the number of district court judges, so as to provide three district court judges for Madison County; to provide for the time of establishment of such judgeship No. 3; and to provide for the election of such additional district judge.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-61, Code of Alabama 1975, is hereby amended to read as follows:

“§12-17-61.

“Each county shall constitute a district and shall have one resident district judge, except that:

“(1) Baldwin, Lee, Etowah, Morgan, Russell, Talladega, Tuscaloosa, Walker, Houston and Dale counties shall each have two resident district judges.

“(2) Montgomery, Madison and Calhoun counties shall have three resident district judges.

“(3) Mobile county shall have four resident district judges.

“(4) Jefferson county shall have 11 resident district judges, who shall be nominated and elected in the manner provided by law for the nomination and election of circuit judges in the county. Three of such district judges shall serve in the Bessemer division and eight shall serve in the Birmingham division.”

**Section 2.** There is hereby created and shall be created and established the office of District Court Judgeship No. 3 for Madison County, which shall be in addition to the two district judgeships now existing. Provided, the additional district judgeship hereby created shall first be filled at the general election to be held in 1990, and the first judge so elected shall serve a full term of office beginning on the first Monday following the second Tuesday in January, 1991.

**Section 3.** The judge of said District Judgeship No. 3 shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations and penalties that other district judges may be subject to exercise and perform. The additional district judge provided for in this act shall receive the same salary and supplements payable in the same manner as the existing district judges of Madison County.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 3:59 P.M.

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Act No. 89-664

S. 441—Senator Preuitt

### AN ACT

Whenever any health insurance policy, contract, plan or agency certificate provides for reimbursement for any service which is within the lawful scope of practice of licensed registered nurses who have passed a national certification examination for the specialty practice of nurse anesthetist as recognized by the Alabama Board of Nursing, and said services are performed by a certified registered nurse anesthetist as recognized by the Alabama Board of Nursing, then the insured, or any other person covered by the policy, contract, or certificate shall be entitled to reimbursement and payment for such services performed by the Certified Registered Nurse Anesthetist, and said Certified Registered Nurse Anesthetist shall be entitled to direct reimbursement by the insurer, unless the Certified Registered Nurse Anesthetist is employed by contract with a group practice of anesthesiologists or a hospital, then such services shall be reimbursed through the employer, and to provide that nothing in this act shall prohibit a licensed hospital from prescribing in its bylaws, policies, rules, or regulations, the qualifications, training, experience, scope of permissible activities, and level or degree of supervision required of any Certified Registered Nurse Anesthetist employed by or performing services in such hospital.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding any other provision of law, when any contract or plan of health insurance, or any plan or agreement for health care services provides for the reimbursement or payment for services which are within the scope of practice of registered nurses who have passed or who are qualified to take the national certification examination for the specialty practice of nurse anesthetist as recognized by the Alabama Board of Nursing, then the insured, or any other person covered by the policy, plan, contract or certificate shall be entitled to reimbursement or payment for such services performed by the Certified Registered Nurse Anesthetist, and said Certified Registered Nurse Anesthetist shall be entitled to direct reimbursement by the insurer, unless the Certified Registered Nurse Anesthetist is

employed by contract with a group practice of anesthesiologist or a hospital, then such services shall be reimbursed through the employer.

**Section 2.** Nothing in this act shall prohibit a licensed hospital from prescribing in its bylaws, policies, rules, or regulations, the qualifications, training, experience, scope of permissible activities, and level or degree of supervision required of any Certified Registered Nurse Anesthetist employed by or performing services in such hospital.

**Section 3.** For the purpose of this section, Certified Registered Nurse Anesthetist means any licensed registered nurse licensed under Code of Alabama, 1975, as amended, §34-21-20, who is a graduate of a formal education program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs or its predecessor, the American Association of Nurse Anesthetists, and is currently certified as a registered nurse anesthetist by the Council on Certification/Recertification of Nurse Anesthetists.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:00 P.M.

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Act No. 89-665

S. 480—Senator Foshee

### AN ACT

Relating to competitive bidding on public contracts and public works; amending further section 14-16-57, Code of Alabama 1975, relating to preference being given to Alabama commodities or firms, so as to proscribe specifying the use of materials or systems by a sole source except in certain instances; amending further sections 41-16-51 and 39-2-2, Code of Alabama 1975, providing that contracts entered into in violation of certain statutes shall be void, so as to provide that certain violations will be Class C felonies.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 41-16-57, 41-16-51 and 39-2-2, Code of Alabama 1975, are hereby amended further to read as follows:

“§41-16-57.

“(a) When purchases are required to be made through competitive bidding, awards shall be made to the lowest responsible bidder

taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges and the dates of delivery.

“(b) The awarding authority in the purchase of or contract for personal property or contractual services shall give preference, provided there is no sacrifice or loss in price or quality, to commodities produced in Alabama or sold by Alabama persons, firms or corporations. Notwithstanding the foregoing, no county official, county commission, school board, city council or city councilmen or other public official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration or repairer of any publicly owned facility may specify the use of materials or systems by a sole source, unless:

“(1) The governmental body can document to the satisfaction of the state of Alabama building commission that the ‘sole source’ product or service is of an ‘indispensable’ nature, that all other viable alternatives have been explored and determined that only this product or service will fulfill the function for which the product is needed. Frivolous features will not be considered.

“(2) The sole source specification has been recommended by the architect or engineer of record and also documents that there is no other product available and that the use of the requirement is of an indispensable nature and why.

“(3) All information substantiating the use of a sole source specification is documented in writing and is filed into the project file.

“(c) The awarding authority or requisitioning agency shall have the right to reject any bid if the price is deemed excessive or quality of product inferior.

“(d) Each record, with the successful bid indicated thereon, and with the reasons for the award if not awarded to the lowest bidder, shall, after award of the order or contract, be open to public inspection.

“(e) Contracts for the purchase of personal property shall be let for periods not greater than one year, and contracts for the purchase of contractual services shall be let for periods of not greater than three years. ‘Lease-purchase’ contracts shall let for periods of not greater than five years.”

“§41-16-51.

“(a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation or ordinance, and



the competitive bidding requirements of this article shall not apply to:

“(1) The purchase of insurance;

“(2) The purchase of ballots and supplies for conducting any primary, general, special or municipal election;

“(3) Contracts for the securing of services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part;

“(4) Contracts of employment in the regular civil service;

“(5) Contracts for furnishing of fiscal or financial advice or services;

“(6) Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with sections 21-2-1 through 21-2-4;

“(7) Purchases of maps or photographs from any federal agency;

“(8) Purchases of manuscripts, books, maps, pamphlets or periodicals;

“(9) The selection of paying agents and trustees for any security issued by a public body;

“(10) Existing contracts up for renewal for sanitation or solid waste collection and disposal between municipalities and/or counties, and those providing the service; nor

“(11) Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible of award by competitive bidding.

“(b) This article shall not apply to:

“(1) Any purchases of products where the price of such products is already regulated and established by state law;

“(2) Purchases made by individual schools of the county or municipal public school systems from moneys other than those raised by taxation or received through appropriations from state or county sources;

“(3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or expansion of any building or

structure or other facility designed or intended for lease or sale by a medical clinic board organized under the provisions of sections 11-58-1 through 11-58-14;

“(4) The purchase, lease or other acquisition of machinery, equipment, supplies and other personal property or services by a medical clinic board organized under the provisions of sections 11-58-1 through 11-58-14;

“(5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties and municipalities;

“(6) Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or extension of any plant, building, structure or other facility or any machinery, equipment, furniture or furnishings therefor designed or intended for lease or sale for industrial development, other than public utilities, under the provisions of sections 11-54-80 through 11-54-99 or sections 11-54-20 through 11-54-28 or any other statute or amendment to the Constitution of Alabama heretofore or hereafter enacted or adopted authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under the provisions of sections 11-56-1 through 11-56-22;

“(7) The purchase of equipment, supplies or materials needed, used and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system or electric system, or any two or more thereof, that are owned by municipalities, counties or public corporations, boards or authorities that are agencies, departments or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county or a municipality; nor

“(8) Purchases made by local housing authorities, organized and existing under chapter 1, Title 24, from moneys other than those raised by state, county or city taxation or received through appropriations from state, county or city sources.

“(c) The said state trade schools, state junior colleges, state colleges and universities under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state shall establish and maintain such purchasing facilities and procedures as may be necessary to carry out the intent and

purpose of this article by complying with the requirements for competitive bidding in the operation and management of each such state trade school, state junior college, state college or university under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent schools districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions.

“(d) Contracts entered into in violation of this article shall be void and anyone who violates the provisions of this article shall be guilty of a Class C Felony.”

“§39-2-2.

“Before entering into any contract for a public improvement involving an amount in excess of \$2,000.00, the awarding authority shall advertise for sealed bids once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or undertaking or some part thereof is to be made. The awarding authority may also advertise in such other publications as it may deem advisable. Such advertisements shall state that plans and specifications for the improvement are on file in the office of the authority and shall state the time and place in which bids will be received and opened. All bids shall be opened publicly at the advertised time and place. No public improvement as defined in this chapter involving a sum in excess of \$2,000.00 shall be split into parts involving sums of \$2,000.00 or less for the purpose of evading the requirements of this section.

“An awarding authority may in its discretion let contracts for public improvements involving \$2,000.00 or less with or without advertising or sealed bids.

“All contracts for the construction, repair, renovation or maintenance of public improvements entered into in violation of this section shall be null, void and violative of public policy; provided, however, all contracts for the construction, repair, renovation or maintenance of public buildings entered into in violation of this section shall be null, void and violation of public policy and anyone who violates the provisions of this article concerning public buildings shall be guilty of a Class C Felony.”

**Section 2.** This act shall become effective immediately upon is passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:01 P.M.

Act No. 89-666

S. 557—Senator Amari

## AN ACT

To amend Section 11-41-1 of the Code of Alabama 1975, relating to incorporation of a municipality, so as to provide further for such incorporation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-41-1 of the Code of Alabama 1975, is hereby amended to read as follows:

“§11-41-1.

“When the inhabitants of an unincorporated community, which has a population of not less than 300, constituting a body of citizens whose residences are contiguous to and all of which form a homogeneous settlement or community, desire to become organized as a municipal corporation, they may apply to the probate judge of the county in which such territory is situated, or the greater portion thereof if it is situated in two or more counties, for an order of incorporation, by a petition in writing signed by not less than 15 percent of the qualified electors residing within the limits of the proposed municipality; provided, that an unincorporated community lying within or partly within the boundaries of a county having a population of 600,000 or more, according to the most recent federal decennial census, shall not be incorporated under this section if the territory proposed to be incorporated has a total population of less than 1,000 or if the territory or any part of its perimeter lies within three miles of the corporate limits of any existing city or town. Provided further, that if an unincorporated community lying within or partly within the boundaries of a county having a population of 600,000 or more, according to the most recent federal decennial census, contains territory that is located closer than three miles to the corporate boundaries of an existing city or town, such unincorporated community shall not be prohibited from incorporating under this section if its territory proposed to be incorporated has a total population of at least 10,000 inhabitants according to the most recent federal decennial census.

“Such petition shall state the proposed name of such municipality and shall have attached thereto and as a part thereof an accurate plat of the territory proposed to be embraced within the corporate limits, including all subdivisions into lots, blocks, streets and alleys, within such territory, if any, and an accurate description by metes and bounds of the boundary of such territory. No platted or unplatted territory shall be included within such boundary unless there are at least four qualified electors, according to government survey, residing

on each quarter of each quarter section or part thereof of such platted or unplatted land, who assent thereto in writing by signing said petition, together with the consent of the persons, firms, or corporations owning at least 60 percent of the acreage of such platted or unplatted lands, such consent to be signified by their signing said petition. Proof of residence and qualifications as electors of petitioners and of persons affected shall be made to the judge of probate, by affidavit or otherwise, as he may direct. When determining the ownership of such lands, the person, firm or corporation assessing the same for taxation shall be accepted by the probate judge as prima facie the owner thereof.

“The inhabitants of any island having an area of not less than five square miles and a population of not less than 300 qualified electors actually residing thereon and being situated in a county having a population of not less than 300,000 nor more than 600,000 according to the 1970 or any subsequent federal decennial census, may become organized as a municipal corporation, embracing within the corporate limits of the proposed municipality the entire area of the island, even though there may be on such island one or more quarters of a quarter section according to the government survey on which no qualified elector resides, if not less than 51 percent of the qualified electors residing on the island sign and file with the judge of probate a petition requesting the judge of probate to call an election relative to the incorporation and the vote at such election is favorable to incorporation. Such petition shall state the proposed name of the municipality and shall have attached thereto and made a part thereof an accurate plat of the entire island, including all subdivisions into lots, blocks, streets and alleys within the territory, and an accurate description by metes and bounds of the island. Except as provided in this section, the incorporation of any such municipality shall be governed by the laws currently providing for the incorporation of unincorporated communities.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:02 P.M.

Bailey, Mitchem, Amari,  
Hand, Hale, Bennett,  
Bedsole, Preuitt, Hilliard,  
Parsons, Campbell, Dixon,  
Ellis and Foshee

## AN ACT

To implement the proposed "Penny Trust Fund" constitutional amendment as enacted by the 1989 regular session of the legislature or as may be enacted by any subsequent session of the legislature and ratified by the voters of Alabama; to provide for donations, gifts, bequests, taxes, division of proceeds, processing of donations, forms, and the promotion of the Fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. AUTHORIZATION, PROCEDURES, AND FORMS.** The State Treasurer is authorized to accept gifts, donations, and bequests from any person, association, company, or corporation wishing to contribute voluntarily to the Penny Trust Fund. Any person, association, company, or corporation may deposit funds in the Penny Trust Fund through the auspices of the State Treasurer or in the appropriately designated depository. The State Treasurer may seek the voluntary participation of banks, financial institutions, or other businesses in receiving and transferring donations to the Penny Trust Fund. The State Treasurer shall promulgate rules and regulations governing the procedures and administration for the voluntary donations, contributions, and transfers to the Penny Trust Fund. Donation and transmittal forms and promotional materials may be developed and distributed as authorized by the State Treasurer.

**Section 2. DIVISION OF PROCEEDS.** Proceeds from the Penny Trust Fund which are dedicated for the promotion of the public health shall be deposited in the General Fund and divided as follows:

(a) Fifty percent to the Department of Public Health for its programs to reduce infant mortality and/or improve child health;

(b) Fifty percent to the Department of Public Health for its indigent health care programs.

Proceeds from the Penny Trust Fund which are dedicated for the promotion of the public schools shall be deposited in the Alabama Special Educational Trust Fund and divided as follows:

(a) Twenty-five percent for programs to prevent substance abuse, including the employment of school counselors;

(b) Twenty-five percent for the immunization of children;

(c) Twenty-five percent for programs to promote health and disease prevention including the employment of school nurses;

(d) Twenty-five percent for student nutrition and nutritional education.

**Section 3. TAX DEDUCTION.** Donations and bequests to the Penny Trust Fund by individuals, associations, corporations, and companies shall be exempt from all county, and municipal taxes and deductible from state taxes in accordance with Section 40-18-15, Code of Alabama, 1975, as amended.

**Section 4. INCOME TAX RETURN.** Taxpayers who file income tax returns and who are entitled to an income tax refund from the State Department of Revenue sufficient to make a donation to the Penny Trust Fund may designate a sum as a voluntary donation from their refunds and such amounts shall be credited to the Penny Trust Fund. The State Department of Revenue shall print on the face of the appropriate state income tax forms a space for the taxpayers to designate that a donation is to be made to the Penny Trust Fund from the income tax refund due. The space for designating the donation shall provide for a checkoff box with the dollar amount to be voluntarily entered by the taxpayer, commencing for the tax year 1990 and thereafter.

**Section 5. STATE AND LOCAL PUBLIC FUNDS.** No state, county, or municipal funds are to be deposited into the Penny Trust Fund.

**Section 6. REPEALER.** This Act is supplementary and shall not be construed to repeal any provisions of law not in direct conflict herewith. However, to the extent of such conflict, those laws or parts of laws are hereby repealed.

**Section 7. SEVERABILITY.** In the event any section, sentence, clause, or provision of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sentences, clauses, or provisions of this Act, which shall continue effective.

**Section 8. EFFECTIVE DATE.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:03 P.M.

Act No. 89-668

S. 366—Senator Bennett

## AN ACT

To authorize the Jefferson County Board of Health to adopt, and the Jefferson County Health Department to enforce, reasonable rules and regulations concerning the operation of boarding and rooming homes in Jefferson County not licensed or regulated by the Alabama State Board of Health, which are operated on a weekly or longer basis for the care of persons who are unrelated to the owners or operators thereof; to authorize said County Board of Health to include in such regulations such provisions as it may deem necessary to safeguard the health and safety, and to prevent financial and physical abuse of persons served; to establish permit and inspection fees with respect to the enforcement of such regulations; to make the power and authority granted cumulative; to make the provisions of the act severable; to supersede all laws in conflict therewith to the extent of such conflict; and to establish an effective date of the Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Findings. The Legislature finds that there are approximately eighty boarding and rooming homes (with over eight hundred beds) in Jefferson County which serve persons who are not related by blood or marriage to the owner or operator thereof. It also finds that these boarding and rooming homes are currently inspected in accordance with the Jefferson County Board of Health regulations governing minimum standards for boarding and rooming homes adopted on February 13, 1980. These regulations do not provide standards for rate schedules, quality and quantity of food provided, nor the physical and mental needs of residents. There is public interest in providing reasonable regulations and periodic inspection for the financial, physical and health protection of the occupants.

**Section 2.** The Jefferson County Board of Health is hereby authorized to adopt and establish, and to amend from time to time, such reasonable rules and regulations with respect to facilities and service contracts as it, from time to time, deems necessary for the financial, health and safety protection of persons served by boarding and rooming homes for periods of one week or more situated in said county where all of the people served are unrelated by blood or marriage to the owner or operator. Said regulations may provide the payment of a permit or license fee not to exceed two hundred fifty dollars per year, background checks on owners and operators and fines for violations of regulations.

Such regulations shall not extend to any facility regulated by the Alabama State Board of Health.

**Section 3.** The Jefferson County Department of Health, or its successor, is hereby authorized to enforce all rules and regulations



adopted by the Jefferson County Board of Health under the provisions of Section 2.

**Section 4.** The provisions of this act are cumulative to all other grants of authority of the Jefferson County Board of Health and the Jefferson County Health Department, whether by local or general law.

**Section 5.** This act shall supersede the provisions of any other law or regulation in conflict herewith.

**Section 6.** The provisions hereof are severable and if any provision hereof be found by any court to be illegal or unconstitutional, such finding shall not invalidate the remaining provisions.

**Section 7.** Any person, firm, association or corporation who shall do any act made unlawful by this act, or regulation promulgated thereunder, shall upon conviction be guilty of a Class A misdemeanor unlawful by a fine not to exceed \$2,000.00 and a definite term of imprisonment in the county jail or to hard labor for the county not to exceed one year. Each day for which a violation of this act, or regulations promulgated thereunder, shall continue shall constitute a separate offense.

**Section 8.** The effective date of this act shall be sixty days after the approval by the Governor, or its otherwise becoming a law.

Approved May 11, 1989

Time: 4:04 P.M.

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Act No. 89-669

S. 518—Senator Bennett

### AN ACT

Relating to the Tenth Judicial Circuit, Jefferson County, Alabama, and the official court reporter; further amending the title and Sections 4 and 5 of Act No. 52, H. 18 of the Second Special Session, 1955 (Acts of 1955, p. 161), and as amended by Act No. 209, H. 698 of the Regular Session, 1955 (Acts of 1955, p. 514), providing for the said court reporters and the county compensation payable from county funds, so as to further provide therefor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title and Sections 4 and 5 of Act No. 52, H. 18 of the Second Special Session, 1955 (Acts 1955, p. 161), as amended by Act No. 209, H. 698 of the Regular Session, 1955 (Acts 1955, p. 514), are hereby amended to read as follows:

“An Act To provide for appointment of official court reporters of the tenth judicial circuit court in Jefferson County, Alabama; to

provide for their qualifications, to fix their compensation, to define their duties and provide for the appointment of county special reporters in such cases; and to repeal all laws which may be in conflict herewith.

“Section 4. All cases reported by an official reporter or special reporter there shall be taxed as part of the costs of the case a fee, as provided by law, for each day or fraction thereof that such reporter shall be engaged in reporting a case, to be collected as costs, and, when collected, paid by the clerk or register of the court into the county treasury.

“Section 5. Such official court reporter shall receive a salary of ten thousand dollars per annum, which shall be payable in equal monthly installments from the general fund of the county.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:05 P.M.

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Act No. 89-670

S. 614—Senator Hale

### AN ACT

Relating to Cullman County; to amend further Section 7 of Act No. 66, H. 105, Second Special Session 1963 (Acts 1963, p. 228), which act levies a sales and use tax in Cullman County and provides for the distribution and use of the tax proceeds, so as to remove a special, separate account established to receive such tax proceeds; to remove the bonding requirements of the custodian of public school funds of Cullman County; and to require the custodian of public school funds to deposit such tax revenues or proceeds into the general fund of the Cullman County school system.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 7 of Act No. 66, H. 105, Second Special Session 1963 (Acts 1963, p. 228), as amended, is hereby further amended to read as follows:

“Section 7. The state department of revenue shall charge Cullman County for collecting the special county taxes levied such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the court of county commissioners, board of revenue, or like governing body of the county, but such charge shall not in any event exceed ten percent of the total amount of special county taxes collected hereunder within the county. Such

charge for collecting the special taxes for the county may be deducted each month from the special sales and special use taxes collected before certifying the amount of the proceeds thereof due Cullman County for that month. The commissioner of revenue shall pay into the state treasury all county taxes collected under this Act, as such taxes are received by the department of revenue; and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collections hereunder), the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of Cullman County during the month immediately preceding the making of such certificate. Provided, however, that before certifying the amount of the taxes paid into the state treasury for the benefit of Cullman County during each month, the commissioner may deduct from the taxes collected in said month the charges due the department for the collection of the taxes for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the custodian of the public school funds of Cullman County, in his official capacity, in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. The custodian of public school funds for Cullman County shall deposit the revenue derived from the taxes levied herein into the general fund of the Cullman County school system. The net proceeds derived from the taxes levied by this Act shall be distributed as follows: The custodian of public school funds shall pay annually to the governing body of Cullman County and to the City of Cullman each the sum of \$12,500 which shall be payable at the rate of \$1,000 per month for eleven months and \$1,500 for the twelfth month. Funds payable to the county governing body shall be paid into the county general fund and funds payable to the City of Cullman shall be paid to the city treasurer. Such funds shall be kept separate and apart from other funds and shall be used exclusively for the purpose of promoting industrial development or for recreational purposes. Exclusive of the \$25,000 heretofore allocated to the county governing body of Cullman County and the City of Cullman to be used for the purpose of promoting industrial development or for recreational purposes, the remaining proceeds shall be divided as follows: Sixty percent to the board of education of Cullman County and forty percent the City of Cullman payable on a monthly basis. The board of education's share of the proceeds shall be used exclusively for educational purposes, including transportation, capital outlay, maintenance and upkeep of buildings and current expenses other than teachers' salaries. The city's share of the proceeds other than that specifically allocated by this Act for the promotion of industrial development and for recreational purposes shall be used for general municipal purposes."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:06 P.M.

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Act No. 89-671

S. 656—Senator Campbell

### AN ACT

Relating to Lawrence County; providing for the establishment of a system for assessment and collection of taxes and issuance of licenses under the supervision of elected county officials designated as county revenue commissioner and county license commissioner upon referendum approved by the electors of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** After the expiration of the present term of the incumbents of the offices of Tax Assessor and Tax Collector of Lawrence County, and beginning on the first day of October, 1991, there shall be a county revenue commissioner and a county license commissioner in Lawrence County. Such commissioners shall be elected in the November, 1990 general election and every six years thereafter in such general elections, and shall serve for a term of office of six years from the first day of October next succeeding their election, and shall serve until their successors are similarly elected, qualified and take office.

**Section 2.** The county revenue commissioner and the county license commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for taxation, the collection of taxes, the issuance of licenses and the keeping of records and the making of reports concerning such functions.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner and the county license commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks, and assistants to perform properly the duties of their office. The acts of deputies shall have the same force and legal effect as if performed by such commissioners themselves.

**Section 4.** Before entering upon the duties of their offices the county revenue commissioner and the county license commissioner shall take oaths of office prescribed by Article XVI of the Constitution

of Alabama, and execute bonds in such sums as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bonds shall be conditioned as other official bonds are conditioned and shall be approved by and filed with the judge of probate. The cost of the bonds required herein shall be paid out of the general funds of the county on warrant of the county commission, and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner and the county license commissioner in the courthouse, and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the offices.

**Section 6.** The county revenue commissioner and the county license commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor and the tax collector of the county are now or hereafter by law authorized or directed to charge or collect for the performance of their respective duties. The compensation for the performance of the duties of the county revenue commissioner and the county license commissioner shall be fixed by the legislature in the last regular session thereof next preceding October 1, 1991.

**Section 7.** The offices of Tax Assessor and Tax Collector of Lawrence County are hereby abolished, effective on the first day of October, 1991.

**Section 8.** It is the purpose of this act to promote public convenience in Lawrence County by renaming the offices of tax assessor and tax collector and redefining the duties and functions associated with such offices.

**Section 9.** The substantive provisions of this act shall become operative only if the act is approved by a majority of the qualified electors of the county voting in a referendum election to be held at the next election held county-wide following passage of this act. The notice of such election shall be given by the judge of probate and the results thereof canvassed in the manner prescribed by law. The question shall be presented substantially as follows:

“Shall Act No. \_\_\_\_\_ of the \_\_\_\_\_ session of the Legislature which renames the offices of tax assessor and tax collector and redefines the functions of such offices in Lawrence County, Alabama, be adopted? Yes \_\_\_\_ No \_\_\_\_.”

If a majority of the votes cast in such election are “Yes”, the provisions of this act shall become operative immediately. If the majority are “No”, this act shall have no further effect.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:07 P.M.

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Act No. 89-672

S. 661—Senator Campbell

### AN ACT

Relating to Lawrence County; to provide for a voluntary, long-range business, education, and economic planning commission to be known as the "Lawrence County 2015 Commission"; to provide for the composition, officers and duties of the commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lawrence County, there is hereby created the "Lawrence County 2015 Commission" (hereinafter called the commission), for the long-term planning of economic development, business and education in the county, whose members serve on a voluntary basis and without compensation.

**Section 2.** (a) The commission shall be composed of volunteer residents of the county who submit written application for appointment to the Lawrence County Legislative Delegation as provided herein for the following positions: Director, Deputy Director, Associate Directors for the areas described in subsection (b) hereof, and other commission membership positions as the delegation may offer.

(b) Associate Directorships shall be available for each of the following areas:

- |                            |                             |
|----------------------------|-----------------------------|
| (1) Education              | (6) Environment             |
| (2) Economic Development   | (7) Governmental Relations  |
| (3) Business and Industry  | (8) Regional Development    |
| (4) Recreation and Tourism | (9) Any other areas deemed  |
| (5) General Information    | necessary by the delegation |

(c) The legislation delegation shall make all appointments for a period of 5 years for each position herein described or created by

the delegation. Successors shall be appointed by the delegation for 5 year terms. Vacancies for unexpired terms shall be made by the delegation.

**Section 3.** No direct appropriations from the state shall be made to the commission. The commission is authorized, however, to receive, hold and expend any public or private grant(s) for a specific purpose and is authorized to receive financial or other assistance from any governmental agency if approved by the agency for the purposes of, without limitation, the hiring of clerical or office personnel, supplies, furniture, office space or other accommodations or equipment.

**Section 4.** (a) The commission shall prepare a 25 year plan, a 20 year plan, a 15 year plan, a 10 year plan and a 5 year plan to correspond respectively with the years 2015, 2010, 2005, 2000 and 1995. The plans shall contain comprehensive projections, observations, suggestions and comments which express the goals, responsibilities, needs, desires and aspirations for the long range planning for the citizens of Lawrence County.

(b) These plans shall be presented by the 2015 commission to the county legislative delegation, and shall be made available to interested citizens of the county as follows:

(1) The 1995 plan shall be presented between December 1, 1990 and January 15, 1991.

(2) The 2000, 2005, 2010, and the 2015 plans shall be presented as soon as possible, but not later than 5 years prior to January 1 of each said year.

**Section 5.** The commission shall not engage in partisan politics in any form concerning its official duties.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:08 P.M.

Act No. 89-673

S. 687—Senator Ellis

## AN ACT

To amend Act No. 82-693 passed by the Alabama Legislature and approved by the Governor (as amended by Act No. 84-454) which provides for the creation and establishment of the Shelby County Planning Commission, so as to further provide for membership, organization, authority and function of the Shelby County Planning Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 2, 3, 4, 8 and 15 of Act No. 82-693 (as amended by Act No. 84-454) of the Legislature are hereby amended to read as follows:

“Section 2. Personnel of the Shelby County Planning Commission. The commission shall be composed of seven members, each of whom shall be a qualified elector in and an actual resident of Shelby County. The Shelby County Commission may appoint as one of the seven members a person engaged in the sale of real estate to serve on the planning commission. All members shall be appointed by the Shelby County Commission, and shall serve at the pleasure of the Shelby County Commission. Each member shall serve a term of six years or until a successor is duly appointed and qualified. Prior to taking office each member shall subscribe to an oath as provided by law for the public officials and the same shall be recorded in the office of the judge of probate of Shelby County. The original members of the commission shall draw lots to determine the period of time each is to serve and the terms of two shall expire two years from the date of the organization of the commission; the terms of two others shall expire four years from the date of the organization of the commission; and the terms of three others shall expire six years from the date of the organization of the commission. In the event of a vacancy on the commission, the same shall be filled as in the case of the original appointment. All members shall be reimbursed reasonable and necessary expenses incurred and may be paid an expense allowance by the county commission not to exceed actual expenses. Members shall hold no other county office and expenses of members shall be paid from the general fund of Shelby County.

“Section 3. Jurisdiction of Commission. The jurisdiction of the commission shall extend to all areas of the county outside the boundaries of municipal corporations, unless a municipality expressly requests by resolution to have the jurisdiction of the planning commission extend into its corporate area.

“Section 4. Organization and Rules. The commission shall elect its chairman and create and fill such other offices as it may determine.



The term of chairman shall be for one year, with eligibility for reelection. The commission shall normally hold at least one regular meeting each month. It shall adopt bylaws for the transaction of business and shall keep a record of its resolutions and transactions of business, all of which shall be a public record.

“Section 8. Election to Determine if Beat is to be Covered by Zoning Regulations. Except where jurisdiction has been obtained by the commission pursuant to Section 3 above, the zoning regulations provided by the commission shall not be applicable in any beat of Shelby County until the majority of the qualified electors of the beat voting in a special election shall have signified by their vote that they desire the authority of the commission and the zoning regulations to apply to their beat. Such an election must be held not less than 30 or more than 45 days after a petition is filed in the office of the judge of probate seeking such an election and signed by no less than 25 electors who vote in said beat and who also own an interest in real estate that is located in such beat. Notice of such election shall be given by three weeks publication and posting notice in two public places within the beat. The cost of conducting said election shall be paid from the general fund of Shelby County. The ballot shall be so worded as to give the voter the opportunity to vote either ‘Yes’ or ‘No’ as to whether he wishes the authority of the commission and the zoning regulations to apply to such beat. Only those qualified electors outside of the boundaries of municipal corporations shall be permitted to vote or sign a petition calling for election in the beat concerned and a statement to this fact shall be carried on the ballot and the petition, or said ballot and petition, shall not be valid. Boundaries of the established area approved for zoning by the qualified electors shall not be changed. Elections for the same beat shall not be held any more often than every 365 days.

“Section 15. Appeals. Any party aggrieved by any final judgment or decision of the commission may, within 15 days, request a review of the record by a five (5) member review board appointed by the Shelby County Commission, one member being the county planning director, one the county public works director, two experts in related fields of planning and one other member. This review board is empowered to require that the planning commission reconsider its earlier decision. If such reconsideration is ordered, the planning commission may reconsider the previous record and any additional material which the planning commission considers relevant. If upon reconsideration by the planning commission, any party remains aggrieved by any final judgment of the planning commission, any party may within 30 days thereafter appeal therefrom to circuit court as provided below. If no review by the five member review board is requested by any party aggrieved by any final judgment or decision of the commission, or reconsideration is not granted by the five

member review board, then the aggrieved party may within 30 days thereafter appeal therefrom. The appeal shall specify the judgment or decision from which the appeal is taken and shall rest upon the contention that such zoning regulations or subdivision regulations in question are unreasonable, discriminatory, unconstitutional, or otherwise invalid, and such appeal shall be filed with and addressed to the circuit court having jurisdiction within the county where the affected property of the aggrieved party is located. In case of such appeal, the commission shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:09 P.M.

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Act No. 89-674

S. 691—Senator Bedford

### AN ACT

Relating to Fayette County; providing for the establishment of a consolidated and unified system of assessment and collection of taxes under the supervision of a county revenue commissioner; prescribing the powers, duties, term of office and compensation of said county revenue commissioner, and providing for his election; abolishing the county offices of tax assessor and tax collector in Fayette County; and providing for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** At the expiration of the terms of office, or if a vacancy occurs in either the office of tax assessor or the office of tax collector of Fayette County before such date, then immediately upon the occurrence of such vacancy there shall be established the office of county revenue commissioner in Fayette County. If such office is established upon the occurrence of a vacancy in either the office of tax assessor or tax collector, then the tax assessor or tax collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term for which he was elected. A revenue commissioner shall be elected at an election called for that purpose and every six years thereafter. He shall serve for a term of office of six years.

**Section 2.** The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative

to the assessment of property for ad valorem taxation, the collection of such taxes, the keeping of records and the making of reports concerning assessments for and the collection of taxes.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

**Section 4.** Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner in the courthouse and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

**Section 6.** The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of any duty imposed by law on any such officers and hereby transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his office, the county revenue commissioner will receive a minimum salary of \$35,000 per annum, as provided by section 40-6A-2, Code of Alabama 1975, payable in twelve equal monthly installments, with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office. If no action is taken by the county commission before the county revenue commissioner takes office at each term, his salary will be \$35,000.

**Section 7.** The offices of tax assessor and tax collector of Fayette County are hereby abolished effective on the last day of the term to which they are elected, or on such earlier date, as is prescribed in Section 1 hereof, if a vacancy occurs in either the office of tax assessor or tax collector.

**Section 8.** It is the purpose of this act to conserve revenue and promote the public convenience in Fayette County by consolidating the offices of tax assessor and tax collector into one county office.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Fayette County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, general or primary election held in Fayette County next following final passage of this act. Notice of the election shall be given by the judge of probate of Fayette County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law abolishing the offices of tax assessor and tax collector and establishing in lieu thereof the office of revenue commissioner? Yes (    ) No (    ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Fayette County shall certify the results of the election to the secretary of state immediately after the returns have been certified.

**Section 12.** If the office of tax assessor or tax collector should become vacant between the time of ratification of this act by the electors of Fayette County and the expiration of the term of office of either the tax assessor or tax collector, this act shall become effective immediately and the election thereon shall be called within forty-five days of such vacancy.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:10 P.M.

Act No. 89-675

S. 692—Senator Corbett

## AN ACT

Relating to Macon County; to provide that beer or ale may be sold in containers not exceeding 32 ounces in size.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Macon County, in addition to all other containers provided for by law, beer or ale may be sold in containers that do not exceed 32 ounces in size.

The taxes on the beer or ale in such containers shall be as provided by general state law.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:11 P.M.

Act No. 89-676

S.J.R. 156—Senator Denton

## SENATE JOINT RESOLUTION

DESIGNATING THE EASTERN TIGER SWALLOWTAIL AS THE OFFICIAL MASCOT AND STATE BUTTERFLY FOR THE STATE OF ALABAMA.

WHEREAS, the City of Selma has previously been designated as the "Butterfly Capital of Alabama" and has selected as its Mascot the Eastern Tiger Swallowtail; and

WHEREAS, the Alabama Garden Clubs through their efforts have set aside April 16 as the official "Save the Butterfly Day" for the State of Alabama; and

WHEREAS, it has been brought to the attention of the City Council of the City of Selma that the State of Alabama does not have an official butterfly as its mascot as the states of California, Georgia, Illinois, Maryland, and Oregon have designated; and

WHEREAS, the City Council of Selma has requested the Legislature of the State of Alabama to designate the Eastern Tiger

Swallowtail as the official mascot and State Butterfly for the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Eastern Tiger Swallowtail be designated as the official mascot and butterfly of the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the City Council of Selma and to The Honorable Guy Hunt, Governor of the State of Alabama.

Approved May 11, 1989

Time: 4:12 P.M.

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Act No. 89-677

S.J.R. 192—Senator Bedford

### SENATE JOINT RESOLUTION

COMMENDING THE BIRMINGHAM STARS U-15 SOCCER TEAM FOR THEIR OUTSTANDING ACCOMPLISHMENTS.

WHEREAS, the Birmingham Stars Soccer Team will represent Alabama at a prestigious International Soccer Tournament to be played in Lund, Sweden, between June 10 and June 23, 1989; and

WHEREAS, this outstanding team was formed in 1984 of young men born in 1974 or 1975 who are from various communities in and around Birmingham; and

WHEREAS, this team competes in the Classic Division which is the highest recognized level of play in the Southeast; and

WHEREAS, the Birmingham Stars have won numerous tournaments in recent years including the 1989 Magic City Invitational Tournament; and

WHEREAS, through discipline, dedication, and hard work, this team has emerged as one of the leading teams in the Southeast United States and has now been afforded the opportunity to showcase its exceptional talent in an international setting; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby highly commend the Birmingham Stars U-15 Soccer Team for their outstanding accomplishments and we wish for them great success at the International Tournament in Sweden this summer.

RESOLVED FURTHER, That a copy of this resolution be sent to each member of the Birmingham Stars U-15 Soccer Team.

Approved May 11, 1989

Time: 4:13 P.M.

Act No. 89-678

S.J.R. 193—Senators Holmes, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Campbell, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hale, Hand, Hilliard, Horn, Langford, Manley, Mitcham, Parsons, Preuitt, Rice, Sanders, Smith (B), Smith (J) and Windom

#### SENATE JOINT RESOLUTION

COMMENDING COACH RUDY ABBOTT OF JACKSONVILLE STATE UNIVERSITY.

WHEREAS, Rudy Abbott has made a significant impact on Jacksonville State University in more than two decades of service, both as Sports Information Director and Head Baseball Coach; and

WHEREAS, Rudy Abbott's 600 career victories have made him one of only four coaches in NCAA Division II history to achieve this lofty goal; and

WHEREAS, Rudy Abbott has become the winningest coach in Alabama history with more than 605 career wins; and

WHEREAS, Rudy Abbott has directed four Jacksonville State University baseball teams to the College World Series, ten to the NCAA Region playoffs, four to Gulf South Conference Championships and 12 to Gulf South Conference Divisional crowns; and

WHEREAS, Rudy Abbot has coached 38 All-Gulf South Conference performers, 18 All-Americans and sent 44 to the professional ranks; and

WHEREAS, Rudy Abbott has been recognized by his peers as Gulf South Conference "Coach of the Year" five times and NCAA District "Coach of the Year" on four different occasions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Rudy Abbott for his long and distinguished service to Jacksonville State University and its athletic program, and for the outstanding recognition he has attained for the University in all phases of his profession.

BE IT FURTHER RESOLVED, That in token of sincere admiration and regard, a copy of this resolution shall be forwarded to Coach Abbott.

Approved May 11, 1989

Time: 4:14 P.M.

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Act No. 89-679

S.J.R. 194—Senator Manley

### SENATE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE FIRST 85 YEARS OF SERVICE OF THE MONROE COUNTY BANK.

WHEREAS, organized February 11, 1904, by John B. Barnett, a prominent Monroeville attorney, the Monroe County Bank opened for business on February 19, 1904, and, in continuing progress over the past 85 years, has well served the financial needs of the area's citizens, as well as the farming and business communities; and

WHEREAS, Mr. Barnett, who served as president of the bank until January 1952, just shortly before his death, was succeeded in leadership by his son, John B. Barnett, Jr., who has been associated with the bank almost continuously since 1933; and

WHEREAS, thus, throughout its 85-year history, The Monroe County Bank has enjoyed the astute direction and guidance of a member of the Barnett family and now, as in the past, continues to occupy a place of prominence among the States' most secure and stable financial institutions; and

WHEREAS, first located in the county courthouse, the bank moved in 1909 to a site on the southwest corner of the downtown square, and moved to its present location, just one block south of the square, in 1972; and

WHEREAS, through consolidation and/or merger with the Bank of Monroeville in 1922 and the First National Bank of Monroeville in 1986, The Monroe County Bank has experienced phenomenal growth, with assets increasing from some \$586 thousand in 1936,



after recovery from the depression, to current assets in excess of \$64 million; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize February 19, 1989, as a significant milestone in the history of The Monroe County Bank, denoting commendable contributions through continuing service by its officers and staffs for the past 85 years, and direct that a copy of this resolution be presented to Mr. John B. Barnett, Jr., chairman of the board of The Monroe County Bank.

Approved May 11, 1989

Time: 4:15 P.M.

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Act No. 89-680

S.J.R. 201—Senator Langford

#### SENATE JOINT RESOLUTION

CONGRATULATING CALVIN P. KEITH, MONTGOMERY, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Calvin P. Keith, a resident of Montgomery, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, the singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Calvin P. Keith, is an active member of Saint Jude Parish, Montgomery, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Calvin P. Keith of Montgomery, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Calvin P. Keith, Montgomery, Alabama, by the Secretary of

the Senate, so that he and his family may know of our high esteem and deep appreciation.

Approved May 11, 1989

Time: 4:16 P.M.

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Act No. 89-681

S.J.R. 203—Senator Langford

### SENATE JOINT RESOLUTION

CONGRATULATING THE HONORABLE WILLIAM A. BOWEN, MONTGOMERY, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, The Honorable William M. Bowen, Judge on the Alabama Court of Criminal Appeals and prominent resident of Montgomery, Alabama, recently was recognized, for meritorious work, his family life and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Judge William M. Bowen, a graduate of St. Bernard College, Samford University and Cumberland School of Law, is a dedicated active member of Saint Bede Catholic Church, Montgomery, Alabama; he has served in many positions in organizations and boards of his Church, and in civic and charitable organizations; he was the Archdiocesan Lay Director of the Cursillo Movement of the Mobile Archdiocese, is a member of many professional organizations where he works for the improvement for others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir William M. Bowen, of Montgomery, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication in both the Church and in his community.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir William M. Bowen, Montgomery, Alabama, by the Secretary of the Senate, so that he and his family may know of our high esteem and deep appreciation.

Approved May 11, 1989

Time: 4:17 P.M.

Act No. 89-682

S.J.R. 204—Senator Smith (J)

## SENATE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF ALABAMA IN HUNTSVILLE AS THE SPONSOR OF AMERICA'S FIRST LICENSED COMMERCIAL SPACE FLIGHT.

WHEREAS, on March 29, 1989, at 8:40 a.m. (MST) a rocket was launched into space from the White Sands (NM) Missile Range; and

WHEREAS, the launch was sponsored by the University of Alabama in Huntsville and was licensed by the United States Department of Transportation Office of Commercial Space Transportation; and

WHEREAS, the launch represented a major milestone as the first licensed commercial space flight in history, and opened the door to the world of commercial space exploration and development; and

WHEREAS, the Consort 1 payload consisted of scientific experiments designed by the UAH Consortium for Materials Development in space and these experiments provided valuable data applicable to the manufacture of medicines, metal alloys and ball bearings, and construction of future space stations; and

WHEREAS, the highly successful fifteen-minute voyage demonstrated that private industry is fully capable of launching payloads into space safely and reliably, and marked the first step forward in commercial space exploration and experimentation; and

WHEREAS, from the very beginning, the Huntsville area has played a leading role in the United States space program, including the design and production of the massive rocket motors that carried American astronauts to the moon; and

WHEREAS, it is therefore fitting that the Huntsville area and in particular the University of Alabama in Huntsville has taken the lead in pioneering America's first commercial venture into space, an historical event that paves the way for the expanding role of commercial ventures in the Nation's space program; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend the University of Alabama in Huntsville as the sponsor of America's first licensed commercial space flight and direct that a

copy of this resolution be sent to the school as evidence of our high esteem.

Approved May 11, 1989

Time: 4:18 P.M.

Act No. 89-683

S.J.R. 205—Senator deGraffenried

### SENATE JOINT RESOLUTION

DESIGNATING SEPTEMBER 24, 1989, AS "UNITED STATES MARSHALS BICENTENNIAL DAY."

WHEREAS, the office of United States Marshall was created by Act of the First Congress which became law on September 24, 1789; and

WHEREAS, for more than a century after the establishment of the United States Government in 1789, United States Marshals provided the only nationwide civilian police power available to the President, Congress, and the Courts; and

WHEREAS, United States Marshals have played a crucial role in most of the major episodes in America's history, from the Whiskey Rebellion of 1794, to the Reconstruction Era following the Civil War and the enforcement of the Civil Rights Acts of the 1960's; and

WHEREAS, more than 300 United States Marshals and Deputy Marshals have given their lives in the course of carrying out their law enforcement responsibilities; and

WHEREAS, United States Marshals and their Deputies are today charged with responsibilities essential to the operation of the federal justice system, including the provision of security for the federal courts and the protection of judicial officers, the pursuit and arrest of fugitives from justice, the enforcement of the orders of the Court, and the management of seized criminal assets; and

WHEREAS, through their consistent and tenacious dedication to duty since 1789, United States Marshals and their Deputies have made and continue to make immeasurable contributions to the rule of law and the protection of human rights through law in the United States; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That September 24, 1989, is designated as "United States Marshals Bicentennial Day,"

and we call upon the people of the great State of Alabama to observe that day with appropriate ceremonies and activities.

Approved May 11, 1989

Time: 4:19 P.M.

Act No. 89-684

S.J.R. 218—Senator deGraffenried

### SENATE JOINT RESOLUTION

#### HONORING JOHN NED SHINES OF COALING, ALABAMA.

WHEREAS, although a native of Tennessee, the great bluesman, John Ned “Johnny” Shines has resided in Alabama for the past twenty years; and

WHEREAS, from his young years in Tennessee and his early association with such blues greats as Howling Wolf and Robert Johnson, to his continuing contributions to this unique American art form, Johnny Shines’ life mirrors the evolution of the blues from his Delta roots through the Chicago period to the electric sound; and

WHEREAS, Johnny Shines, an Alabamian in whom we are justly proud, has performed at festivals and concerts throughout this country and Europe, and today he is recognized as one of the country’s greatest living bluesmen; and

WHEREAS, by his musical genius and talent, Johnny Shines has enriched the lives of blues lovers throughout the world and, in reflection of his fame, the State of Alabama has enjoyed favorable recognition both at home and abroad; and

WHEREAS, the Alabama Council on the Arts, in appreciation of his contributions to the preservation and furtherance of the blues, is presenting Johnny Shines with the state’s “Living Treasure” Heritage Award; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consensus of commendation with the Alabama Council on the Arts, we stand in tribute to the accomplishments and contributions of John Ned Shines as a living legend in the world of blues.

BE IT FURTHER RESOLVED, That in token of highest honor and esteem, a copy of this resolution shall be presented to Mr. Shines.

Approved May 11, 1989

Time: 4:20 P.M.

Act No. 89-685

S.J.R. 220—Senators Bedsole, Barron,  
Mitchem, Bedford, Dial,  
Rice, Manley, Hale,  
Smith (B), Goodwin,  
Holmes, Campbell,  
Parsons, Cabaniss,  
Foshee, Bennett, Dixon,  
Hand, Amari, Drinkard,  
Preuitt, Denton,  
Windom, Smith (J),  
Bishop, Covington,  
Langford and  
deGraffenried

### SENATE JOINT RESOLUTION

DESIGNATING "MY HOME'S IN ALABAMA" AS THE OFFICIAL ALABAMA REUNION THEME SONG.

WHEREAS, "Alabama," in addition to countless other awards and honors of past years, has been recognized by the Academy of Country Music as "Artist of the Decade"; and

WHEREAS, "Alabama" has brought great fame and honor to our state, both nationally and internationally, through their great talent, musical genius and many outstanding accomplishments; and

WHEREAS, the members of "Alabama," along with Lionel Ritchie, are serving as honorary co-chairmen of the Alabama Reunion; and

WHEREAS, "My Home's in Alabama" is a song made familiar throughout the world as a number-one hit recording by "Alabama"; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the song "My Home's in Alabama," as the Official Theme Song for the Alabama Reunion, and it is understood that "My Home's in Alabama" being designated as the Official Theme Song of the Alabama Reunion will in no way replace "Alabama" as the Official State Song as specified in Title 1, Section 2-16, Code of Alabama 1975.

Approved May 11, 1989

Time: 4:21 P.M.

Act No. 89-686

H. 338—Reps. White (L) and Haynes

## AN ACT

To provide that in addition to the definitions and authorizations contained in Sections 27-17-16, 27-30-1, 27-30-31, 27-30-33 and 27-36-7 of the Code of Alabama 1975, mutual aid associations may provide insurance policies and contracts as are authorized for domestic life and disability insurers in chapter 3 of Title 27 of the Code of Alabama 1975, subject to the limits on the size and types of risks to be insured as stated in Section 27-30-15 and Section 27-30-6.1.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Mutual aid associations organized and authorized under the provisions of chapter 30 of Title 27, Code of Alabama 1975, are, in addition to those authorizations and responsibilities stated in Sections 27-17-16, 27-30-1, 27-30-31, 27-30-33 and 27-36-7 of the Code of Alabama 1975, entitled to provide insurance policies and contracts as are authorized domestic life and disability insurers pursuant to chapter 3 of Title 27, Code of Alabama 1975, subject to the limits on the size and types of risks to be insured as stated in Section 27-30-15 and Section 27-30-6.1.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:23 P.M.

Act No. 89-687

H. 58—Rep. Newton (D)

## AN ACT

To amend Sections 41-16-20, 41-16-24, 41-16-50, and 41-16-54 Code of Alabama 1975, relating to competitive bidding on public contracts, so as to provide further for the minimum amount of certain purchases and contracts that must be subjected to competitive bid procedures.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-16-20, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-16-20.

“All contracts of whatever nature for labor, services or work or for the purchase or lease of materials, equipment, supplies or other

personal property, involving \$5,000.00 or more made or on behalf of any state department, board, bureau, commission, committee, institution, corporation, authority or office shall, except as otherwise provided in this article, be let by free and open competitive bidding, on sealed bids, to the lowest responsible bidder."

**Section 2.** Section 41-16-24, Code of Alabama 1975, is hereby amended to read as follows:

"Section 41-16-24.

"(a) The purchasing agent shall advertise for sealed bids on all purchases in excess of \$5,000.00 by posting notice thereof on a bulletin board maintained outside his office door or by publication of notice thereof one time in a newspaper published in Montgomery county, Alabama, or in any other manner and for such lengths of time as he may determine; provided, however, that the purchasing agent shall also solicit sealed bids by sending notice by mail to all Alabama persons, firms or corporations who have filed a request in writing that they be listed for solicitation on bids for such particular items as are set forth in such request and such other persons, firms or corporations the purchasing agent deems necessary to insure competition. If any person, firm or corporation whose name is listed fails to respond to any solicitation for bids after the receipt of three such solicitations, such listing may be cancelled by the purchasing agent, at his discretion.

"(b) All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of the contract shall be retained and made a part of a permanent file or records and shall be open to public inspection.

"(c) If the purchase or contract will involve an amount of \$5,000.00 or less, the purchasing agent may make such purchases or contracts either upon the basis of sealed bids or in the open market, in his discretion.

"(d) No purchase or contract involving an amount in excess of \$5,000.00 shall be divided into parts involving amounts of \$5,000.00 or less for the purpose of avoiding the requirements of this article. All such partial contracts involving \$5,000.00 or less shall be void."

**Section 3.** Section 41-16-50, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 41-16-50.

"(a) All expenditure of funds of whatever nature for labor, services or work, or for the purchase of materials, equipment, supplies or other personal property involving \$5,000.00 or more, and also the



lease of materials, equipment, supplies or other personal property where the lessee is or becomes legally and contractually bound under the terms of the lease, to pay a total amount of \$5,000.00 or more, made by or on behalf of any state trade school, state junior college, state college or university under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards and other like utility boards and commissions, except as hereinafter provided, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder; provided, that in the event a bid is received for an item of personal property to be purchased or contracted for from a person, firm or corporation deemed to be a responsible bidder, having a place of business within the county, where the awarding authority is the county or instrumentality thereof, or within the municipality, where the municipality or an instrumentality thereof is the awarding authority, which such bid is no more than three percent greater than the bid of the lowest responsible bidder, the awarding authority may award the contract to such resident responsible bidder. In the event only one bidder responds to the invitation to bid, the awarding authority may reject the bid and negotiate the purchase or contract, providing the negotiated price is lower than the bid price.

(b) The governing bodies of two or more contracting agencies, as hereinabove enumerated within the same county or adjoining counties, may provide by joint agreement for the purchase of labor, services or work, or for the purchase or lease of materials, equipment, supplies or other personal property for use by their respective agencies. Such agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services or work, or for the purchase or lease of materials, equipment, supplies or other personal property to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating contracting agency and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing agent, and such agent shall have the responsibility to comply with the provisions of this

article. It is provided further that purchases, contracts or agreements made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this article.

(c) It is further provided that all bidders must furnish a bid bond on any contract exceeding \$10,000.00; provided, that bonding is available for such services, equipment or materials."

**Section 4.** Section 41-16-54, Code of Alabama 1975, is hereby amended to read as follows:

"Section 41-16-54.

"(a) All proposed purchases in excess of \$5,000.00 shall be advertised by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for such lengths of time as may be determined; provided, however, that sealed bids shall also be solicited by sending notice by mail to all persons, firms or corporations who have filed a request in writing that they be listed for solicitation on bids for such particular items as are set forth in such request. If any person, firm or corporation whose name is listed fails to respond to any solicitation for bids after the receipt of three such solicitations, such listing may be cancelled.

(b) All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of the contract shall be retained and made a part of a permanent file or records and shall be open to public inspection.

(c) If the purchase or contract will involve an amount of \$5,000.00 or less, the purchases or contracts may be made upon the basis of sealed bids or in the open market.

(d) No purchase or contract involving an amount in excess of \$5,000.00 shall be divided into parts involving amounts of \$5,000.00 or less for the purpose of avoiding the requirements of this article. All such partial contracts involving \$5,000.00 or less shall be void."

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:24 P.M.

Act No. 89-688

H. 63—Reps. Blakeney, Hamilton  
and Marks

### AN ACT

To declare that all conveyances and vehicles of transportation, including trailers and semi-trailers, horses, or any other equipment, together with all harness or other

accessories used in the perpetration of livestock theft, be contraband and forfeited to the State Department of Agriculture and Industries; to allow Livestock Theft Investigators and other officers to seize property used in the perpetration of livestock theft and report said seizure to the District Attorney; to require that the District Attorney institute condemnation proceedings against property in the same manner as condemnation proceedings against property used to transport illegal alcoholic beverages; to require that the proceeds from the sale of such property be paid into the state agricultural fund; to allow lienholders with a perfected security interest under the Uniform Commercial Code to recover the property after payment of expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) All conveyances and vehicles of transportation including trailers and semi-trailers, horses, or any other equipment, together with all harness or other accessories, which have been used, or are used in the commission of theft of livestock, as defined in Section 13A-8-4 (g) Code of Alabama (1975), shall be contraband, and in the discretion of the circuit court, may be forfeited to the State Department of Agriculture and Industries, as hereinafter provided.

(b) Livestock Theft Investigators, appointed under Section 2-2-14 Code of Alabama (1975), or any other officer authorized to enforce those laws pertaining to the theft of livestock, who finds any vehicle, conveyance or equipment, listed above, which is being, or has been, used in the perpetration of the crime of theft of livestock, shall seize said vehicle, conveyance or equipment listed above, and report said seizure to the District Attorney in the county where the seizure was made. The report made to the District Attorney shall include a full description of the property seized along with a full explanation of the circumstances under which the property was seized.

(c) The District Attorney or other prosecuting officer of the judicial circuit, upon receiving such report may at once institute, or cause to be instituted condemnation proceedings in the circuit court, in the same manner that he is directed by law to institute proceedings for the condemnation and forfeiture of automobiles and other vehicles used in the illegal transportation of alcoholic beverages. The provisions of Sections 28-4-286 and 28-4-287 Code of Alabama (1975), so long as they are in compliance with this section shall apply.

(d) The proceeds of the sale of any property condemned and forfeited to the State Department of Agriculture and Industries under authority of this section, after payment of all expenses in the cause, including the cost of seizure and a keeping of the property pending the proceedings, shall be paid into the State Treasury to the credit of the agricultural fund.

(e) Any lienholder with a perfected security interest recorded in accordance with the Uniform Commercial Code may recover the property in kind or may recover the balance remaining after deduction of any costs of recovery and sale.

**Section 2.** The provisions of this Act are severable. If any part is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with any provision of this Act are hereby repealed.

**Section 4.** This Act shall become a law immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:25 P.M.

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Act No. 89-689

H. 81—Rep. Buskey (JE)

### AN ACT

To amend Section 16-13-13, Code of Alabama 1975, pertaining to classroom instructional supplies, material and equipment, excluding furniture and fixtures so as to require that funds expended for said instructional supplies shall be spent only for said purpose except during years of declared proration, and if proration is declared and subsequently lifted or removed, then funds for such instructional supplies must be spent as appropriated.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-13-13, Code of Alabama 1975, is hereby amended to read as follows:

“§16-13-13.

“(a) The funds provided under the Education Appropriations Act for the purchase of instructional supplies and materials and appropriated to the state board of education for all teachers employed (except ESEA Title I, Title III, and Title IV teachers and ESAA teachers) shall be allocated by the state board of education to each county and city board of education for the purchase of instructional supplies, materials, and equipment, excluding furniture and fixtures. From the funds provided herein above, each county and city board of education shall allocate to the individual schools in their respective systems their pro rata amount as may be appropriated by the legislature for each teacher unit assigned to each school.

“(b) All faculty members will be given the opportunity for input. The faculty and principal of each school shall cooperatively develop a budget for the purchase of instructional supplies and materials and, by a majority vote of the faculty, approve a budget for the school. At least one-half of the amount allocated shall be available for each

teacher for materials and supplies for that teacher's students provided, however, any teacher may sign a waiver releasing said funds for joint purchases within the schools. No board of education shall withhold from any school any funds to which it is entitled under the provisions of this section except during years of proration; provided further, however, if proration is declared and is subsequently removed or lifted, then funds for said instructional supplies, materials and equipment shall be spent as originally appropriated. Based upon the budget developed by the faculty, the principal shall recommend to the superintendent the recommended amount to be allocated to each teacher to be spent for agreed upon items and other amounts to be used for the common good of all for the operation of the instructional program within the school. The local school board shall issue requisitions for purchases from these funds and shall issue purchase orders and handle all financial transactions in compliance with this section.

“(c) It is the intent of the legislature that no fees shall be collected in the future in courses required for graduation. In courses not required for graduation, local school boards may set reasonable fees for courses requiring laboratory and shop materials and equipment, provided, however, that such fees shall be waived for students who cannot afford to pay the fee. Any funds collected in fees shall be spent on the course for which the fee was levied. This section shall not be construed to prohibit community groups or clubs from fundraising activities, provided, however, that students shall not be required to participate in such fundraising activities. Any funds provided herein not expended during the fiscal year shall revert to the Alabama special educational trust fund.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:26 P.M.

Act No. 89-690

H. 116—Reps. Brooks, Sanderford  
and Freeman

### AN ACT

To further provide for the tax liability of certain retailers who rely on legally issued state tax exempt numbers when users violate the tax exempt privilege; to authorize the state department of revenue to collect the tax from the user of the tax exemption number and certain others; to specifically provide that certain retailers are exempt from the tax liability.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law to the contrary notwithstanding, any retailer, who relies in good faith on any state sales tax exemption number that has been authorized by the state revenue department and the exemption claim has been made on a form provided or approved for use by the revenue department, when a state tax exemption number holder violates the tax exempt privilege or uses such number illegally, shall not subsequently be liable to the state revenue department or others for the sales tax on purchases.

**Section 2.** The state revenue department is authorized to use its powers and responsibilities, in accord with the general laws of this state, to collect or recover any sales taxes due on purchases made illegally with state tax exempt numbers from the party or parties using such number and the person or persons who benefited from such illegal use of the tax exempt number, if the retailers acted in good faith and reasonably believe the purchase was legal.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:27 P.M.

Act No. 89-691

H. 147—Reps. Starkey, Marks, Zoghby  
and Seibels

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AN ACT

This bill amends Sections 11-51-201, 11-51-203, 40-12-4, 40-23-101, 40-23-102, 40-23-104, 40-23-107 and 40-29-115, Code of Alabama 1975, which relates to the collection of certain sales and use taxes, so as to provide that the county tax collector shall collect municipal gross receipts or sales taxes and county sales taxes on sales made by a person or firm other than a licensed dealer of any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the probate judge, authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or, if a business, the business location; to require the county tax collector to collect the municipal and county use taxes authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or, if a business, the business location, on sales of the aforesaid vehicles made by

dealers doing business outside the state of Alabama and on sales made by licensed Alabama dealers where municipal and county sales taxes were not collected at the time of purchase; to provide procedures to be used in the collection of said taxes; to provide for the distribution of revenues collected hereunder; to provide for a fee to be paid to the tax collector for such services; and to provide penalties for noncompliance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-51-201, Code of Alabama 1975, is hereby amended as follows:

“Section 11-51-201. Applicability of provisions of state sales tax law.

“(a) All taxes levied or assessed by any city or town pursuant to the provisions of Section 11-51-200 shall be subject to all definitions exceptions, exemptions, proceedings, requirements, provisions, penalties, fines, punishments and deductions as are provided by Sections 40-23-1, 40-23-2, 40-23-4, 40-23-6 through 40-23-32 and 40-23-34 through 40-23-36, except where inapplicable, where otherwise provided in this article, or as provided in subsection (b) herein.

“(b) Notwithstanding the provisions of subsection (a), the tax provided in section 11-51-200 on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the probate judge, which is not sold through a licensed Alabama dealer, shall be collected and fees paid in accordance with the provisions of sections 40-23-104 and 40-23-107, respectively.”

**Section 2.** Section 11-51-203, Code of Alabama 1975, is hereby amended as follows:

“Section 11-51-203. Applicability of provisions of state excise or use tax law.

(a) All taxes levied or assessed by any city or town pursuant to the provisions of Section 11-51-202 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, penalties, fines, punishments and deductions as are provided by Article 2 of Chapter 23 of Title 40 of this Code, except where inapplicable, where otherwise provided in this article, or as provided in subsection (b) herein.

(b) Notwithstanding the provisions of subsection (a), the tax provided in section 11-51-202 on any automotive vehicle, truck trailer, trailer, semitrailer or travel trailer required to be licensed with the probate judge, which were sold by dealers that are not licensed in Alabama, or were sold by licensed Alabama dealers who failed to collect municipal or county sales taxes at the point of sale, shall be collected and fees paid in accordance with the provisions of sections 40-23-104 and 40-23-107, respectively.”

(c) For making the collection of county or municipal taxes levied under the authority of this article, the tax collector shall be entitled to a fee from the recipient county or municipality in an amount equal to five percent of the first \$10,000.00 of revenue collected for said recipient and three percent of all revenue collected over \$10,000.00 for said tax recipient under this article each month. Such fee shall be for the use of the tax collector, except as otherwise provided by law. The fees allowed herein shall be deducted from the tax collection of each tax recipient each month and the remainder of such collections shall be remitted to each tax recipient as provided by law; provided, however, such fee shall be disallowed with respect to any tax collected for the county or municipality unless such collections are remitted to the appropriate county or municipal tax recipient within the time allowed by law. In all counties where the tax collector is paid on a salary instead of a fee basis all fees allowed under the terms of this section to be paid to the tax collector shall be paid, by said tax collector, into the county treasury or to the official performing the duties of county treasurer.

**Section 3.** Section 40-12-4, Code of Alabama 1975, is hereby amended as follows:

“Section 40-12-4. County license tax for school purposes—Authority to levy.

(a) In order to provide funds for public school purposes, the governing body of each of the several counties in this state is hereby authorized by ordinance to levy and provide for the assessment and collection of franchise, excise and privilege license taxes with respect to privileges or receipts from privileges exercised in such county, which shall be in addition to any and all other county taxes heretofore or hereafter authorized by law in such county. Such governing body may, in its discretion, submit the question of levying any such tax to a vote of the qualified electors of the county. If such governing body submits the question to the voters, then the governing body shall also provide for holding and canvassing the returns of the election and for giving notice thereof. All the proceeds from any tax levied pursuant to this section less the cost of collection thereof shall be used exclusively for public school purposes, including specifically and without limitation capital improvements and the payment of debt service on obligations issued therefor.

(b) Notwithstanding anything to the contrary herein, said governing body shall not levy any tax hereunder measured by gross receipts, except a sales or use tax which parallels, except for the rate of tax, that imposed by the state under this title. Any such sales or use tax on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the probate judge, where not collected by a licensed Alabama dealer at time of



sale, shall be collected and fees paid in accordance with the provisions of sections 40-23-104 and 40-23-107, respectively. No such governing body shall levy any tax upon the privilege of engaging in any business or profession unless such tax is levied uniformly and at the same rate against every person engaged in the pursuit of any business or profession within the county; except, that any tax levied hereunder upon the privilege of engaging in any business or profession may be measured by the number of employees of such business or the number of persons engaged in the pursuit of such profession. In all counties having more than one school system, revenues collected under the provisions of this section shall be distributed within such county on the same basis as funds received by the county from the minimum program fund are distributed within the county."

**Section 4.** Section 40-23-101, Code of Alabama 1975, is hereby amended as follows:

"Section 40-23-101. Sales tax levied on automotive vehicles, truck trailers, etc.

There is hereby levied and shall be collected as herein provided a sales tax upon every person, firm or corporation purchasing within this state, other than at wholesale, any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the judge of probate of any county in this state from any person, firm or corporation that is not a licensed dealer engaged in selling automotive vehicles, truck trailers, trailers, semi-trailers, or travel trailers in an amount equal to two percent of the purchase price.

In addition to the two percent state sales tax, there shall also be collected any applicable municipal gross receipts or sales taxes and county sales taxes on the aforesaid vehicles listed in this section authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or, if a business, the business location. Penalties for falsifying or misrepresenting the correct taxing jurisdictions shall be as provided in section 40-29-115(b)."

**Section 5.** Section 40-23-102, Code of Alabama 1975, is hereby amended as follows:

"Section 40-23-102. Excise tax levied on storage or use of automotive vehicles, truck trailers, etc.

There is hereby levied and shall be collected as herein provided, in lieu of the excise tax levied by subsection (c) of section 40-23-61, an excise or use tax upon every person, firm or corporation purchasing outside the state, other than at wholesale, any automotive vehicle, truck trailer, trailers, semitrailer or travel trailer, required to be registered or licensed with the judge of probate of any county

in this state for use, storage or other consumption within this state a tax in an amount equal to two percent of the purchase price.

In addition to said two percent state use tax, there shall also be collected any applicable municipal and county use tax authorized by general or local law for the local taxing jurisdiction in which the purchaser resides, or, if a business, the business location on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer purchased from dealers doing business outside the state of Alabama and from licensed Alabama dealers where municipal and county sales taxes were not collected at the time of purchase. Penalties for falsifying or misrepresenting the correct taxing jurisdiction shall be as provided in Section 40-29-115(b)."

**Section 6.** Section 40-23-104, Code of Alabama 1975, is hereby amended as follows:

"Section 40-23-104. Collection of taxes before registration or licensing; proof of purchase price; proof of payment of tax.

(a) The tax collector shall collect:

(1) the taxes levied by this article;

(2) the municipal gross receipts or sales taxes and county sales taxes authorized by general or local law on sales made by a person or firm other than a licensed dealer;

(3) the municipal and county use taxes authorized by general or local law on sales made by dealers doing business outside the state of Alabama and on sales made by licensed Alabama dealers where municipal and county sales taxes were not collected at the time of purchase; and

(4) the state use tax on any such automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed by the judge of probate before such registration or licensing.

(b) The tax collector shall require, as proof of the purchase price of the automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer to be taxed, when purchased from a licensed dealer in this state, documentation of the price upon which any state, county or municipal sales tax was paid and which reflects the amount of such state, county or municipal sales tax paid and any other evidence of the purchase price as shall be prescribed by the department of revenue. All licensed dealers in this state shall furnish the purchaser of any of the aforesaid vehicles documentation showing the amount and rate of sales or gross receipts tax collected at the time of purchase for the state and for the municipality and county where the sale was made.

(c) The tax collector shall require, as proof of the purchase price of any other such automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer to be taxed, the presentment of a sworn report by the purchaser reflecting such purchase price on a form to be provided by the department of revenue accompanied by a properly executed bill of sale or other satisfactory evidence prescribed by the department of revenue.

(d) In lieu of the requirements contained in subsection (c) of this section, the purchaser may stipulate to the tax collector that the purchase price of the automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer to be taxed is equivalent to a standard value for the year, make and model established by the department of revenue for the taxable item. The purchase price so stipulated shall be conclusively presumed to be the purchase price of such item for all purposes under this article.

(e) Before the registration of or licensing of any such automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer, the judge of probate shall require proof of payment of the tax levied under this article as he deems to be necessary and proper.

(f) Any law to the contrary notwithstanding, the county tax collector shall remit all county and municipal sales, gross receipts and use taxes collected hereunder directly to the appropriate county or municipal tax recipient as otherwise provided by law, within 20 days following the last day of the month in which such taxes were collected. Penalty for failure to comply with this section shall be as provided in section 40-29-111."

**Section 7.** Section 40-29-115, Code of Alabama 1975, is hereby amended as follows:

"Section 40-29-115. Fraud and false statements.

(a) Any person who:

(1) **DECLARATION UNDER PENALTIES OF PERJURY.**—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) **AID OR ASSISTANCE.**—Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the state revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claims, or document; or

(3) **FRAUDULENT BONDS, PERMITS, AND ENTRIES.**—Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of this title, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) **REMOVAL OR CONCEALMENT WITH INTENT TO DEFRAUD.**—Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 40-29-23, with intent to evade or defeat the assessment or collection of any tax imposed by this title; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000.00 (\$500,000.00 in the case of a corporation), or imprisoned not more than three years, or both.

(b) It shall be unlawful for anyone to falsify or misrepresent the correct residence address of the owner or the correct address of the business location, of an automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer with the intent to avoid municipal or county ad valorem, sales or use tax in any county or municipality in which the owner resides, or in which the business owner of such vehicle or trailer in subject to tax. Violation of this subsection shall be a Class C misdemeanor.”

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective on October 1, 1989, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:28 P.M.

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Act No. 89-692

H. 248—Reps. Bryant, Lindsey  
and Richardson

AN ACT

To provide that where a bond is required for persons to be licensed or permitted by the Commissioner or Board of Agriculture and Industries a bond equivalent may

be substituted in lieu thereof; that said bond equivalent shall be limited to cash bonds or irrevocable letters of credit and that said bond equivalent shall comply in all aspects with the requirements for a bond; that the Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries, is empowered to adopt rules and regulations to carry out the provisions of this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Legislature has found and does hereby declare that bonds that are required by persons obtaining licenses and permits that are issued by the Commissioner of Agriculture and Industries or the Department or the Board of Agriculture and Industries are hard to obtain and unduly expensive.

Many times the person applying for the permit or license will have available funds such as cash or negotiable securities or credit, but existing statutes do not allow for these funds to be substituted in lieu of a bond.

It is, therefore, the purpose of this law to allow certain specified funds to be substituted in lieu of those bonds that are required to be obtained prior to being licensed or permitted.

**Section 2.** (A) Whenever there is a requirement under law to obtain any permit or license issued by the Commissioner of Agriculture and Industries, the Board of Agriculture and Industries or the Department of Agriculture and Industries that the permittee or licensee be bonded, the licensee or permittee may substitute in lieu of the bond a bond equivalent.

(B) The bond equivalent shall be in the form of a trust fund agreement based upon cash, fully negotiable bonds of the U.S. Government or of the State of Alabama, or an irrevocable letter of credit.

(C) The Commissioner of Agriculture and Industries shall furnish all necessary forms to be used for the issuance of the bond or bond equivalent.

**Section 3.** Every provision relating to the amount, the making, executing, filing and maintaining and all other requirements required for a bond issued by a surety shall also be applicable for any trust fund agreement issued in lieu of a bond.

**Section 4.** The Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries, and under the provisions of the Alabama Administrative Procedures Act, is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the evident intent and purposes of this Act.

The Commissioner is also empowered, with the approval of the State Board of Agriculture and Industries, to also adopt such rules

concerning irrevocable letters of credit so as to adequately protect the Department and the public who may have occasion to depend upon said letter of credit for payment.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:29 P.M.

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Act No. 89-693

H. 303—Rep. Haynes

## AN ACT

Relating to Talladega County; authorizing the county to pay all of its employees whose compensation is provided for by local act, on a bi-weekly basis instead of a semi-monthly basis; to provide that the provisions of this act are supplemental and are to be construed in pari materia with other laws regulating compensation; and to provide further that those laws or parts of laws that are in direct conflict or inconsistent with this act are repealed hereby.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All employees of Talladega County whose compensation is provided for by local acts shall be paid on a bi-weekly basis rather than on a semi-monthly basis.

**Section 2.** The provisions of this act are supplemental. It shall be construed in pari materia with other laws regulating compensation; however those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

**Section 3.** This act shall become effective October 1, 1989.

Approved May 11, 1989

Time: 4:30 P.M.

Act No. 89-694

H. 479—Rep. Richardson

## AN ACT

To amend Sections 24-1A-5 and 24-1A-9 of the Code of Alabama 1975, relating to the powers of Alabama Housing Finance Authority and to the limitation on issuance of certain bonds by Alabama Housing Finance Authority, so as to provide further for such powers and such limitation on issuance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 24-1A-5 of the Code of Alabama 1975, is hereby amended by adding thereto the following numbered paragraphs:

“§24-1A-5.

“The authority shall have the following powers:

“(1) To have succession by its corporate name until the principal of and interest on the bonds shall have been fully paid and until it shall have been dissolved as provided in this chapter;

“(2) To sue and be sued and to prosecute and defend in any court having jurisdiction of the subject matter and of the parties thereto;

“(3) To adopt and use a corporate seal and to alter the seal at pleasure;

“(4) To establish a fiscal year;

“(5) To maintain an office in the city of Montgomery;

“(6) To adopt, and from time to time amend and repeal, bylaws and rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority in the conduct of its business;

“(7) To purchase mortgage loans from mortgage lenders;

“(8) To contract with mortgage lenders for the origination of, or the servicing, of mortgage loans to be made by such mortgage lenders and the servicing of the mortgages securing such mortgage loans;

“(9) To make loans to mortgage lenders, provided that (i) the proceeds of such loans shall be required to be used by such mortgage lenders for the making of mortgage loans, and (ii) the mortgages in connection with the mortgage loans so made, together with any additional security required by the authority, shall be mortgaged,

pledged, assigned or otherwise provided as security for such loans to mortgage lenders;

“(10) To exercise any and all rights accorded to the owner and holder of a mortgage under and in accordance with the terms of said instruments and the applicable laws of the state with respect to the mortgaged property, directly or through mortgage lenders or others acting on behalf of the authority or on behalf of the holders of its bonds, including, but without limitation, the power to foreclose, to sell the equity of redemption, to purchase the equity of redemption and otherwise to sell and dispose of the mortgaged property, all as shall seem in the best interests of the authority and the holders of its bonds;

“(11) To sell and issue bonds in order to provide funds for any corporate function, use or purpose;

“(12) To mortgage, pledge, assign or grant security interests in any or all of its mortgage loans, mortgages and its interests created thereby in the underlying real and personal properties covered by such mortgages as security for the payment of the principal of, and interest on, any bonds issued by the authority, or as security for any agreements made in connection therewith, whether then owned or thereafter acquired, and to pledge the revenues from which said bonds are payable as security for the payment of the principal of, and interest on, said bonds and any agreements made in connection therewith;

“(13) To establish such reserves from the proceeds of any issue of bonds or from revenues of the authority as the board of directors shall determine to be necessary and desirable in connection with the payment and retirement of the bonds of the authority or in connection with any other purpose, power or function of the authority;

“(14) To execute and deliver, in accordance with the provisions of this section and of section 24-1A-6, mortgages and deeds of trust and trust indentures, or either;

“(15) To appoint, employ, contract with and provide for the compensation of, such employees, attorneys, fiscal advisers and agents as the business of the authority may require;

“(16) To provide for such insurance as the board of directors may deem advisable, including, but without limitation, casualty insurance, mortgage payment guarantee insurance and bond insurance;

“(17) To invest in authorized investments any funds of the authority that the board of directors may determine are not presently needed for other uses, purposes or functions of the authority;

“(18) To enter into a management agreement or agreements with any person, firm or corporation for the performance by said person,



firm or corporation for the authority of any of its functions or powers upon such terms and conditions as may be mutually agreeable;

“(19) To sell, exchange and convey any or all of its properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized; and

“(20) To make, enter into and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or desirable to accomplish any purpose for which the authority is organized or to exercise any power granted by this chapter:

“(21) To issue mortgage credit certificates to those persons and families who have received financing from any mortgage lender for the purpose of acquiring, rehabilitating, or improving single-family residential housing in Alabama. The authority shall have the power and the authority to take all steps, make all conditions, and do all things necessary in order to issue the certificates and implement and enforce the mortgage credit certificate program within the parameters and following the procedures specified by federal law and federal regulations governing the mortgage credit certificate program, notwithstanding any contrary provision in this chapter. The authority shall be the sole and exclusive issuer of mortgage credit certificates in and for the state;

“(22) To administer other federal programs, present or future, which assist in the provision and financing of housing, including, but not limited to, allocation and issuance of low income housing tax credits under federal law and regulations including Section 42 of the Internal Revenue Code of 1986, as amended, and to take all other actions necessary or convenient to the implementation and administration of such programs; and

“(23) To acquire, hold and dispose of real and personal property.”

**Section 2.** Section 24-1A-9 of the Code of Alabama 1975, is hereby amended to read as follows:

“§24-1A-9.

“Notwithstanding any other provision of this chapter to the contrary, the authority shall not issue any bonds, other than refunding bonds, subsequent to December 31, 1995.”

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:31 P.M.

Act No. 89-695

H. 497—Rep. Coburn

## AN ACT

To amend §§16-25-3 and 36-27-4, Code of Alabama 1975, which prohibits participation in the Teachers' or Employees' Retirement System of Alabama by persons age 61 or older; to further provide that a member of the Teachers' Retirement System or the Employees' Retirement System who was prohibited from participating in his respective retirement system because such member was age 61 or older at the time of employment may purchase credit for such service.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** §16-25-3, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-3.

“(a) The membership of the retirement system shall consist of the following: All persons who shall become teachers after the date of establishment shall become members of the retirement system as a condition of their employment. Any person who is a teacher on the date of establishment shall become a member as of that date unless within a period of 90 days next following such teacher shall file with the board of control on a form prescribed by the board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system.

“(b) A teacher in service on October 1, 1973, whose membership in the retirement system was contingent on his own election and who elected not to become a member may thereafter apply for and be admitted to membership with all prior service credit and with all membership service credit as otherwise provided for in this chapter by applying for such membership within 150 days from September 17, 1973; provided, that said teacher pays to the treasurer of the said retirement system on or before October 1, 1974, a sum equal to the total contributions which he would have made as a member during the period of his employment as a teacher from September 1, 1941 to the date of his application for membership, plus compound interest of eight percent on such contributions. Any member or any retired member who at one time taught as a nonmember may now receive credit for prior service and for the years taught as a nonmember; provided, that said member or said retired member, within 150 days from September 17, 1973, pays to the treasurer of the said retirement system a sum equal to the total contributions which he would have made as a member during the period of his employment as a teacher from September 1, 1941 to the date he became a member,

plus compound interest of eight percent on such contributions. As soon as practicable after the expiration of the time for making such elections, the department of education, at the request of the governor, shall furnish him a report of the number of teachers in service who applied for membership or credit for prior service. The board of control of the teachers' retirement system shall determine and report to the governor the employer cost for such coverage.

"(c) The board of control may, in its discretion, deny the right to become members to any class of teachers whose compensation is only partly paid by the state or who are serving on a temporary or other than per annum basis, and it also may, in its discretion, make optional with members in any such class their individual entrance into the retirement system. Should any member in any period of six consecutive years after becoming a member be absent from service more than five years or withdraw his contributions, as provided in subsection (g) of section 16-25-14, or retire or die, he shall thereupon cease to be a member.

"(d) Notwithstanding, a teacher in service on October 1, 1975, who has full-time military service in the armed forces of the United States, exclusive of service in a reserve or national guard component of any branch of the armed forces, and who has not received credit toward retirement status in the teachers' retirement system of Alabama for said military service, may be granted by the board of control membership service credit for the period of such service in the armed forces; provided, that such member pays into the teachers' retirement system, in a lump sum prior to October 1, 1976, an amount equal to four percent of the average compensation paid to a teacher during each claimed year of full-time military service, plus and together therewith, eight percent interest compounded from the last date of such claimed military service; provided further, that such a member shall not receive membership service credit for more than four years of military service and shall receive no credit for military service if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces or by reason of any such service in any branch of the armed forces or if such member received anything other than an honorable discharge for and including the claimed military service.

"(e) Anything in this chapter to the contrary notwithstanding, if any person becoming a member of the teachers' retirement system after October 1, 1975 shall have served in the armed forces of the United States, exclusive of service in a reserve or national guard component of any branch of the armed forces, such member may be granted by the board of control membership service credit for such period of service in the armed forces; provided, that such member pays into the teachers' retirement system, in a lump sum within one

year next after the first day of the pay period in which the first deduction to the teachers' retirement system is made, after having been honorably discharged from the armed forces, an amount equal to four percent of the average compensation paid to a teacher during each claimed year of full-time military service, plus and together therewith eight percent interest compounded from the last date of such claimed military service; provided further, that no member shall receive more than four years' membership service credit for military service, and no credit for military service shall be granted if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces or by reason of any service in any branch of the armed forces or if such member received anything other than an honorable discharge for and including the claimed military service.

"(f) Except as provided in this section, no benefit under the retirement system other than the return of contributions as provided in subsection (g) of section 16-25-14 shall become payable to or on account of any member while he is not in service as as teacher, unless the member withdraws from service after reaching age 60; provided, that a teacher who becomes a member on or after October 1, 1963 must have 10 or more years of creditable service when he withdraws from service after reaching age 60.

"(g) Anything in this title to the contrary notwithstanding, any member who, at the time of his withdrawal from service, has completed the age and service requirements established by the board of control for eligibility for deferred benefits shall be eligible to continue in the membership of the system until he files application for service retirement in accordance with the provisions of section 16-25-14. The board of control shall, from time to time, establish the minimum age and the minimum number of years of creditable service which shall be required in order that a member may be eligible for deferred benefits; provided, that such minimum number of years of creditable service shall not be less than 10 years nor more than 25 years. Unless and until changed by the board of control, the requirements for deferred benefits shall be the completion of 25 years of creditable service or the completion of 10 years of creditable service and the attainment of age 55 at the time of withdrawal from service."

**Section 2.** §36-27-4, Code of Alabama 1975, is hereby amended to read as follows:

"§36-27-4.

"(a) The membership of the retirement system shall be composed as follows:

"(1) All persons who shall become employees after October 1, 1945, shall become members of the retirement system as a condition of their employment.

"(2) Any person who is an employee on October 1, 1945, shall become a member as of that date unless, within a period of 90 days next following, such employee shall file with the board of control on a form prescribed by the board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his membership in the retirement system.

"(3) An employee whose membership in the retirement system is contingent on his own election and who elects not to become a member may thereafter apply for and be admitted to membership with all prior service credit as otherwise provided for in this article by applying for such membership at any time prior to July 1, 1962; provided, that said employee pays to the treasurer of the said retirement system on or before July 1, 1962, a sum equal to the total contributions which he would have made as a member during the period of his service as an employee from October 1, 1945, to the date of his application for membership. Any member or retired employee who at one time worked as a nonmember may now receive credit for prior service and for the years worked as a nonmember; provided, that said member or retired employee pays to the treasurer of the retirement system on or before July 1, 1962, a sum equal to the total contributions which he would have made as a member during the period of his employment from October 1, 1945, to the date he became a member.

"(4) All county engineers of the several counties of the state whose salaries the state highway department participates, except county engineers who are already members of this retirement system under provisions of this article or who are covered under the provisions of a county retirement system supported by funds of the employing county. The effective date for the inclusion of county engineers in the system shall be October 1, 1964. Membership in the retirement system shall be optional for county engineers employed on the date participation becomes effective, and any county engineer who elects to enroll in the retirement system within one year thereafter may be admitted to membership with all prior service credit and all membership service credit; provided, that said county engineer pays to the treasurer of the retirement system at the time he enrolls a sum equal to the total employee contributions and interest he would have had to his credit had he been a member during the period of his service as county engineer from October 1, 1945, to the date of his application for membership. Should a county engineer employed on the date participation becomes effective elect to enroll as a member without paying such prior membership contributions and interest, he may become a member without credit for service prior to date of his enrollment. Membership shall be compulsory for all county engineers who are eligible for such membership upon

entering service as a county engineer after the date participation becomes effective to the extent of the state highway department's participation in his salary.

“(b) The board of control may, in its discretion, deny the right to become members to any class of employees whose compensation is only partly paid by the state, except as provided in this article.

“(c) Should any member in any period of six consecutive years after becoming a member be absent from service more than five years or withdraw his contributions, as provided in subdivision (1) of subsection (c) of section 36-27-16, or retire or die, he shall thereupon cease to be a member.

“(d) A member in service on January 1, 1976, who has honorable duty consisting of active full-time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the armed forces, and who has not received credit toward retirement status in the employees' retirement system of Alabama for said military service, may be granted by the board of control membership service credit for the period of such service in the armed forces; provided, that such member pays into the employees' retirement system, in a lump sum prior to October 1, 1976, an amount equal to four percent of the average compensation paid to a state employee during each claimed year of full-time military service, plus and together therewith eight percent interest compounded from the last date of such claimed military service; and provided further, that such a member shall not receive membership service credit for more than four years of military service, and shall receive no credit for military service if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces, or by reason of any such service in any branch of the armed forces, or, if such member received anything other than an honorable discharge for and including the claimed military service. Anything in this article to the contrary notwithstanding, if any person becoming a member of the employees' retirement system after January 1, 1976, shall have honorable duty consisting of active full-time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the armed forces, such member may be granted by the board of control membership service credit for such period of service in the armed forces; provided, that such member pays into the employees' retirement system, in a lump sum within one year next after the first day of the pay period in which the first deduction to the employees' retirement system is made after having been honorably discharged from the armed forces, an amount equal to four percent of the average compensation paid to a state employee during each

claimed year of full-time military service, plus and together therewith eight percent interest compounded from the last date of such claimed military service; and provided further, that no member shall receive more than four years' membership service credit for military service, and no credit for military service shall be granted if such member is receiving military service retirement benefits, other than disability allowances or benefits, from any branch of the United States armed forces, or by reason of any service in any branch of the armed forces, or, if such member received anything other than an honorable discharge for and including the claimed military service.

“(e) No benefit under the retirement system other than the return of contributions as provided in subdivision (1) of subsection (c) of section 36-27-16 shall become payable to or on account of any member while he is not in service as an employee, unless the member withdraws from service after reaching age 60, or, in the case of a state policeman, after reaching age 56. Anything in this article to the contrary notwithstanding, any member who has completed 15 years of creditable service or who has completed 10 years of creditable service and has attained age 55 at the time of his withdrawal from service shall be eligible to continue in the membership of the system until he files application for service retirement in accordance with the provisions of subsection (a) of section 36-27-16.

“(f) Any member, who retired prior to January 1, 1976, who has service in the armed forces, as described in this section, shall be entitled to claim such full-time military service; provided, that such retired member pays into the employees' retirement system, in a lump sum prior to October 1, 1976, an amount equal to four percent of the average compensation paid to a state employee during such claimed year of full-time military service, plus and together therewith eight percent compounded from the last date of such claimed military service; and provided further, that such retired member shall not receive membership service credit for more than four years of military service, and shall receive no credit for military service, if such member is receiving military service retirement benefits, other than disability allowance or benefits, from any branch of the armed forces, or by reason of any such service in any branch of the armed forces. The provisions of this subsection shall be retroactive to October 1, 1975.

“(g) All retirement allowance payments due on or after January 1, 1976, to members of the employees' retirement system of Alabama who retired prior to said date and who have complied with the provisions of this section shall be redetermined as if the provisions of this section were in effect at the time they retired; provided, that any increase in the retirement allowance payment for a member who, prior to October 1, 1975, retired under the provisions of any optional benefit elected pursuant to Acts 1945, No. 515, as amended, shall

accure only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments."

**Section 3.** Any member of the teachers' retirement system of Alabama who was prohibited from participating in the teachers' retirement system because such member was age 61 or older at the time of his employment may purchase credit for any such service including service subsequent to July 1, 1988, for which the member would have been eligible for coverage except for his age, provided that such member shall pay to the secretary-treasurer of the teachers' retirement system within one year after the effective date of this act a sum equal to the total contributions which he would have made as a member during the period of such employment plus 8 percent interest on such total contributions compounded annually from the date of such service.

**Section 4.** Any member of the employees' retirement system of Alabama who was prohibited from participating in the employees' retirement system because such member was age 61 or older at the time of his employment may purchase credit for any such service including service rendered subsequent to October 1, 1988, for which the member would have been eligible for coverage except for his age, provided that such member shall pay to the secretary-treasurer of the employees' retirement system within one year after the effective date of this act a sum equal to the total contributions which he would have made as a member during the period of such employment plus 8 percent interest on such total contributions compounded annually from the date of such service.

**Section 5.** This act shall become effective October 1, 1989 upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:32 P.M.

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Act No. 89-696

H. 605—Rep. Walker

### AN ACT

To amend Act No. 952, H. 8, 1988 Second Special Session, which levies a state privilege tax on pari-mutuel pools, so as to provide remedial clarification regarding the intended pari-mutuel pools at the Mobile Greyhound Park subject to taxation under Act 88-952, and to provide that the amendments herein provided shall have a retroactive effect to October 30, 1988.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 952, H. 8, 1988 Second Special Session, is hereby amended to read as follows:

“Section 2. (a) In addition to any and all other taxes imposed by law, there is hereby levied, upon every person engaged in the business of operating a dog race track in the State of Alabama, a privilege tax of one percent of the pari-mutuel pool on all pari-mutuel races.

(b) In addition to the tax levied by Section 2(a) of this Act and in addition to any and all other taxes imposed by law, there is hereby levied, upon every person engaged in the business of operating a dog race track in the State of Alabama, a privilege tax of one percent (1%) of the pari-mutuel pool on all pari-mutuel races requiring the selection of three or more racers; provided that the commission received by said operator, after deducting local taxes in effect on September 28, 1988, shall not be reduced below the amount that said operator received prior to the imposition of this tax.

(c) Notwithstanding the provisions of any local or general act to the contrary, any dog race track licensee authorized to conduct pari-mutuel racing shall be entitled to retain as a commission from the pari-mutuel pool (the “take out”) an amount equal to 19% of all pari-mutuel pools where a bettor is required to select two or less racers and an amount equal to 21% where a bettor is required to select three or more racers. The tax levied in Section 2 above is not imposed to extent that it would require a licensee to increase the commissions above said amounts in order to receive such tax from the pari-mutuel pool.”

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** The provisions of this Act shall have retroactive effect to October 30, 1988.

Approved May 11, 1989

Time: 4:33 P.M.

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Act No. 89-697

H. 676—Rep. Breedlove

### AN ACT

To amend Sections 24-7-1, 24-7-2, 24-7-3, and 24-7-4, Code of Alabama 1975, which provide for the Mowa Choctaw Housing Authority, so as to define the term

"reservation," provide further for the appointment of members of the Authority, delete the reference to the Civil Rights Act of 1968, and provide further for the duties, powers and area of operation of the Authority.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 24-7-1, 24-7-2, 24-7-3, and 24-7-4, Code of Alabama 1975, are hereby amended to read as follows:

"§24-7-1.

"As used in this chapter, the following words shall have the following meanings ascribed to them:

"(1) PROJECT. Any low-rent housing hereafter developed or acquired by the authority with financial assistance of the United States of America acting through the Secretary of Housing and Urban Development.

"(2) TRIBE. The Mowa Band of Choctaw Indians.

"(3) RESERVATION. Any land, the title to which is held by the Mowa Band of Choctaw Indians."

"§24-7-2.

"There is hereby created and established an Indian housing authority for the jurisdictions of Mobile and Washington counties, to be styled the Mowa Choctaw housing authority, whose purpose shall be the provision of safe and healthy dwelling places for low-income members of the Mowa Band of Choctaw Indians of Mobile and Washington counties.

"The Mowa Choctaw housing authority shall consist of seven members, and shall be appointed by the Mowa Choctaw Tribal Council. No person shall be barred from serving as a member of the authority because he is a tenant or home buyer in a tribal housing project.

"Members of the Mowa Choctaw housing authority, hereinafter styled the authority, shall serve a term of five years from their appointment, and may serve an unlimited number of terms. In the event of a vacancy on the authority, the Mowa Choctaw Tribal Council shall appoint a successor to fill the unexpired term.

"The authority shall select from among its members a chairman, a vice chairman, a secretary, and a treasurer. No member shall hold two offices upon the authority. The chairman shall preside at meetings of the authority. The vice chairman shall preside in the absence of the chairman. In the absence of both the chairman and vice chairman, the secretary shall preside.

"The governor may remove any member of the authority for neglect of duty, inefficiency, or misconduct in office, but only after

a hearing before the authority, which shall forward findings of fact and their recommendations to the governor, and only after such member has been given a written notice of the charges against him at least 10 days prior to the hearing. At such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf.

"Four members shall constitute a quorum for the conduct of business of the authority. A member who is unable to attend a meeting in person may present, in writing, a dated and signed voting proxy to a designated representative, who shall attend the meeting and act in his place and stead.

"The normal domicile of the authority is Mobile and Washington counties. Meetings of the authority may be held at other locations within the state upon notification of the members by certified mail, at least 10 days prior to the meeting date.

"§24-7-3.

"The authority is hereby authorized:

"(1) To undertake research and studies and analyses of housing needs in Mobile and Washington counties, and means by which such needs may be met, including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rental and sales prices, and employment, wages and other factors affecting the local housing needs and the meeting thereof, and make the results and analyses available to the public and the building, housing and supply industries;

"(2) To enter into contracts with cities, towns, counties, and other housing authorities in the state for the purpose of carrying out the provisions of this chapter;

"(3) To establish rentals and select tenants in low income rental housing projects under its jurisdiction;

"(4) To issue bonds, notes, and other evidence of indebtedness for the purpose of financing the construction of housing for low-income persons;

"(5) To obtain, rent, lease, or otherwise obtain from any county, city, or state, properties of such public bodies as are offered for use to the authority for the purpose of providing housing to low-income members of the Mowa Band of Choctaw Indians; and

"(6) To enter into contracts and agreements with agents of the United States government for the purpose of purchasing land, constructing, renovating, providing streets, utilities, and landscaping

grounds for rental and other housing for low-income members of the Mowa Band of Choctaw Indians.

“(7) All powers, rights, and functions specified for municipal housing authorities created pursuant to Sections 24-1-20 through 24-1-45 of the Code of Alabama, 1975.

“All provisions of law applicable to housing authorities created pursuant to Title 24 of the Code of Alabama for municipalities and the commissioner of such authorities shall be applicable to the Mowa Choctaw Housing Authority, unless a different meaning clearly appears from the context.

“The Tribal Chairman and the Tribal Council of the Mowa Band of Choctaw Indians is hereby authorized to exercise all appointing and other powers with respect to an Indian housing authority that are vested in the chief executive officer and governing body of a municipality pursuant to Title 24 of the Code of Alabama with respect to municipal housing authorities.”

“§24-7-4.

“The area of operation of the authority shall be within Washington and Mobile counties in areas, outside of the corporate boundaries of cities or towns existing at the time of the passage of this amendatory act, and in areas historically considered to be occupied by the Indians of Mobile and Washington counties; provided, that the authority shall not undertake any housing project or projects within the area of operation of any city, county or regional housing authority unless a resolution shall have been adopted by such city, county or regional housing authority declaring that there is a need for the Mowa Choctaw Housing Authority to exercise its powers within such city, county or regional housing authority’s area of operation.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:44 P.M.

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Act No. 89-698

H. 688—Rep. Bryant

### AN ACT

Relating to Perry County; authorizing the county commission to levy a county privilege, license or excise tax on the sale, distribution, storage, use or other consumption of certain tobacco products in the county; providing for the collection and enforcement of the tax; and appropriating the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Perry County commission is hereby authorized to levy upon every person, firm or corporation who sells, stores, delivers, uses or otherwise consumes certain tobacco products in Perry County a county privilege, license or excise tax up to the following amount:

Up to four cents (\$0.04) for each package of cigarettes, made of tobacco or any substitute therefor.

Said privilege, license or excise tax shall be in addition to all other taxes heretofore imposed by law. Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes.

**Section 2.** (a) Upon the passage of this act, the county commission is authorized to levy on every person, firm, corporation, club or association that sells or stores or receives for the purpose of distribution in Perry County any cigarettes shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, acting merely as agent for the collection of the tax. The dealer, storer or distributor shall state the amount of the tax separately from the price of the cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes.

(b) It shall be the duty of the county commission of Perry County to enforce the provisions of this act. Upon its imposing the tax herein provided for, the Perry County Commission, its members or agents shall have the right to examine the books, reports and accounts of every dealer, storer or distributor engaged in the business for which the tax is herein levied, and to make any and all rules and regulations necessary and proper for the collection of such tax. Provided, that upon resolution by the Perry County Commission, the state department of revenue is hereby authorized and directed to collect all such county tobacco taxes now or hereafter levied by said county under the provisions of this act, and further, said resolution must be received and accepted by the state department of revenue at least two months prior to the effective date of the collection and administration of said tax(es) by the department of revenue as set by the Perry County Commission.

(c) It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Perry County in the business for which

the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail for not more than 60 days, or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 3.** The tax hereby authorized to be levied shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The state department of revenue, if directed and authorized by the Perry County Commission to collect and administer the county privilege, license or excise taxes levied herein, for as long as directed by the county commission, shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax. In the event the required stamps are not available for the purpose of affixing to tobacco product packages and containers, authority is hereby granted for the utilization of a monthly reporting system approved by the department of revenue, and adopted through the promulgation of administrative regulations by the department, as evidence of the taxes herein levied.

**Section 4.** The state department of revenue, if directed and authorized by resolution of the Perry County Commission to collect and administer the county privilege, license, or excise tax herein levied, for as long as directed by the county commission, is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 5.** All laws, rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as if set out herein.

**Section 6.** The proceeds of the tax levied herein, less the actual costs of collection not to exceed ten percent (10%), shall be paid by

the state department of revenue to the Perry County Commission on a monthly basis. Said proceeds shall be distributed as follows:

(1) Seventy percent (70%) shall be distributed to the county general fund; and

(2) Thirty percent (30%) shall be distributed to the county board of education.

**Section 7.** (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution.

(b) This act shall not be construed to apply to cigarettes stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:45 P.M.

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Act No. 89-699

H. 693—Reps. Starkey, Hamilton  
and Goodwin

### AN ACT

Relating to the City of Florence; to provide for the establishment of a civic center; to provide for the creation of a public corporation hereinafter called "the Authority," for the purpose of establishing, maintaining and operating such civic center; to provide that the Authority shall be governed by a board of directors and that its affairs shall be managed and controlled by the board of directors; to define the powers and authority of the board of directors, including the power to construct, maintain, control, operate and manage a civic center and to borrow money and issue revenue bonds for such purpose; to prescribe the membership of the board of directors, the terms of office of the members thereof and to provide for their appointment and compensation; to prescribe the duties of the board of directors; to confer upon the Authority the power of eminent domain; to prescribe the type of buildings which may be erected as a part of such civic center and the use of such buildings; and to authorize the municipality to lease, sell, donate or otherwise convey to the Authority real or personal property, including park properties, without the necessity of authorization by election of the qualified voters of the municipality.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The words and terms defined in this section when used in this act shall have the meanings respectively ascribed to them herein, unless it is apparent from the context that a different meaning is intended. The word "Authority" shall mean the Civic Center Authority created by this act. The word "person" shall mean and include a natural person, a corporation, a partnership, an association or any other entity. The word "mayor" shall mean the mayor or other chief executive officer of a municipality. The masculine shall include the feminine and neuter; and the neuter shall include the masculine and the feminine.

**Section 2.** The legislature hereby finds and determines that the following conditions exist: (1) that it is to the interest of the citizens of the City of Florence that there be established in that city a civic center; (2) that such civic center will be a great cultural asset and constitute a great civic betterment for all of the people of Florence; and (3) that it is desirable that there be established to operate, control and manage the civic center a public corporation created by this act, vested with the powers conferred on said corporation by this act. The legislature declares that it is the purpose of this act to facilitate, in the manner hereinafter prescribed, the establishment, maintenance and operation of a civic center in the City of Florence and to provide for the operation and management of such civic center by the public corporation created by this act.

**Section 3.** There is hereby established a public corporation for the purposes hereinafter specified, which corporation shall be vested with the powers conferred upon it by this act. The said public corporation is at times hereinafter referred to as "the Authority."

Subject to the conditions and qualifications hereinafter stated, the name of the corporation shall be "Civic Center Authority of the City of Florence." The board of directors of the Authority may choose some name other than that above specified at any time it elects to do so; provided, however, that if the board of directors chooses any other name there shall be filed for record in the office of the probate judge of the county a copy of the resolution of the board of directors stating the name adopted by the Authority, which resolution shall be followed by a certificate, signed by the chairman of the board of directors, stating the date on which the resolution was adopted and stating that the copy of the resolution preceding said certificate is a true and correct copy of the resolution adopted by the board of directors.

The affairs of the Authority shall be managed and controlled by a board of directors consisting of five members. Three members shall be appointed by the city council for a period of four years and two



members shall be appointed by the mayor for a period of five years. The chairman of the board shall be elected by said board after all five members have been appointed and have qualified as such and shall serve as such chairman until the expiration of the term he is then currently serving as a member of the board.

No person shall be appointed as a member of the board of directors of the Authority unless he is a qualified elector of the municipality. The members of the board of directors shall serve without compensation except that they shall be reimbursed for actual expenses incurred in and about the performance of their duties hereunder.

In case a directorship held by an appointed director becomes vacant during his term a successor to him shall be appointed in the same manner in which the person vacating the directorship was appointed. The successor shall be appointed for the remainder of the term during which the vacancy occurred; provided, however, that if a person is elected to any vacant directorship during the last six months of any term he shall be deemed appointed for the remainder of such term and for the next succeeding term of such directorship.

**Section 4.** The power of the said Authority shall be vested in and exercised by a majority of the members of the board of directors; however, the board may delegate to one or more of its members or its officers, agents and employees such duties as it may deem proper. The board of directors shall elect a vice chairman of said board, who shall serve as chairman in the event of the chairman's absence. The board of directors shall also elect a treasurer and a secretary. The same person may serve as secretary and treasurer. The secretary and treasurer may or may not be a member of the board. The treasurer shall act as custodian of all the funds, from whatever sources derived, received by the Authority. The treasurer shall deposit said monies in a separate account or accounts in one or more bank or banks or trust companies which are duly qualified and doing business in the State of Alabama; provided, however, that the Authority may by resolution or by trust indenture securing the issuance of bonds then authorized designate a fiscal agent or trustee who shall be a bank or trust company duly qualified to do business in the State of Alabama and upon such terms and conditions (and subject to such exceptions, if any) as may be specified in such resolution or trust indenture may authorize such fiscal agent or trustee to receive and disburse all funds applicable to payment of said sums.

The treasurer of the Authority shall execute a fidelity bond with a company authorized to write such bonds in the State of Alabama being surety thereon, which bond shall be in an amount approved by the board of directors of the Authority.

Contracts of the Authority shall be executed in the name of the Authority by the chairman of the board of directors and attested by the secretary of the Authority. Except for bonds, it is not required that the seal be impressed or printed on contracts. It is further provided hereby that, except for bonds, the board of directors may provide by resolution for a different form for the execution of contracts, and for the execution thereof by an officer or agent other than the chairman and secretary. But in no event shall a contract, irrespective of its form and of the persons executing the same, be binding unless such contract was authorized or ratified by the board of directors.

The Authority shall have authority to hire an architect or architects and enter into contracts for their services in designing and supervising the construction of any building, civic center, auditorium, arena, convention hall, music hall, art museum, places of recreation, art exhibits, office buildings and other structures that it shall desire to construct.

**Section 5.** The Authority shall be authorized to construct, maintain, control, operate and manage a civic center in the City of Florence. The Authority shall be authorized to construct, maintain, control, operate and manage all or any of the following to be situated in the civic center: buildings to provide offices to be used by the State of Alabama or by any agency, subdivision or public corporation thereof or by the county or by one or more municipalities thereof for any municipal purpose otherwise authorized by law and buildings to house or accommodate public facilities of the State of Alabama or of any agency, subdivision or public corporation thereof or of the county or of any one or more of said municipalities for any municipal purpose otherwise authorized by law; streets, boulevards, walkways, parkways and parks; monuments, statues and other structures beautifying the civic center; community houses or meeting houses and auditoriums; arenas; convention halls and convention sites; music halls and art museums; places of recreation; art exhibits and other exhibits for the advancement of the humanities and the cultural development and edification of the citizens of the county and of the municipalities located therein.

The Authority shall have the power (a) to sue and be sued; (b) to acquire property and rights and interests in property by gift, lease or purchase or by the exercise of eminent domain; (c) to have a seal and alter the same at pleasure; (d) to appoint officers, agents, employees and attorneys, and to fix their compensation; (e) to make bylaws for the management and regulation of its affairs; (f) to make contracts, and to execute all instruments necessary or convenient to lease or purchase and own real or personal property to be used for the furtherance of the purposes for the accomplishment of which

said Authority is created; (g) to arrange, sponsor and conduct programs and exhibits in the civic center for the advancement of the cultural, civic and scientific interests and welfare of the citizens of the county and of the municipalities thereof and for the advancement of the humanities; (h) to promote, sponsor and operate in the civic center exhibitions and recreational activities; (i) to charge fees for admission; (j) to leave or sublease to the State of Alabama or any agency, political corporation or subdivision thereof, or to the county or to any municipality of the county, or to other persons any property owned or leased by or under control of the Authority; to purchase or lease real property and rights or easements therein necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue; (k) to accept or receive gifts, bequests and devises; and (l) to do all things necessary or convenient to carry out the powers expressly given herein.

For the aforesaid purposes and for no other purposes the Authority shall be authorized to use and apply the proceeds of any taxes which the legislature provides shall be payable to the Authority.

Subject to the conditions stated hereinbelow, the county and each municipality thereof are authorized, but not required: To lease, sell, donate or otherwise convey to the Authority real or personal property, including park properties, without authorization by election of the qualified voters of the county or of the municipality; and to appropriate public funds of the county or of the municipality, as the case may be, to the Authority, to be used by the Authority for purposes hereinabove enumerated. The county shall not lease, sell, donate or convey any property to the Authority, or appropriate any money to the Authority, unless the governing body of the county has determined that such lease, sale, donation, conveyance or appropriation will benefit the people of the county to such an extent as to fully warrant and justify the lease, sale, donation, conveyance or appropriation; and no municipality shall lease, sell, donate or convey any property to the Authority or appropriate any money to the Authority unless the governing body of such municipality has determined that such lease, sale, donation, conveyance or appropriation will benefit the people of the municipality to such an extent as to fully warrant and justify the lease, sale, donation, conveyance or appropriation.

The Authority shall be authorized to invest any of its funds not needed to meet disbursements, in bonds or obligations of the United States of America or to deposit such funds in any bank or building and loan association, provided such deposit is fully insured by a federal corporation or agency of the Federal Government insuring deposits in financial institutions, or secured by a deposit of bonds or obligations of the United States of America.

This act shall not be construed to limit the right, power or authority of any municipality to operate facilities similar to the facilities provided for by this act. Without limiting the generality of the next foregoing sentence, it is expressly provided that this act shall not in any way affect any auditorium art museum, or other facility presently owned or hereafter acquired by any municipality, whether situated in the civic center or elsewhere.

**Section 6.** (a) Subject to the conditions, qualifications and restrictions set forth in subsection (b) of this section, the Authority shall have the power to borrow money and to issue revenue bonds as evidence of money so borrowed, which bonds shall be payable solely from taxes made payable to the Authority by an act of the legislature heretofore or hereafter adopted and from the revenues of the Authority derived from the activities, operations and enterprises in which the Authority is hereby authorized to engage. As security for any money so borrowed, together with interest thereon, and any obligations incurred or assumed, the Authority, in its discretion, may mortgage, pledge or otherwise transfer and convey its real, personal and mixed property, or any part or parts thereof, whether then owned or thereafter acquired, including any franchises then owned or thereafter acquired and all or any part of the taxes payable to the Authority under any act of the legislature heretofore or hereafter adopted and all or any part of revenues derived from the activities, operation and enterprises in which the Authority lawfully engages. In the resolution authorizing such revenue bonds or the mortgage given to secure the payment thereof, the Authority, in addition to its other powers, shall have the power to agree with the several holders of such bonds and to make, enter into and perform covenants and agreements as to:

(1) The custody, security, use, expenditure or application of the proceeds of the bonds;

(2) The conduct, management and maintenance of the properties held by the Authority or of the activities, operations and enterprises then or thereafter conducted by the Authority;

(3) Insurance of the properties of the Authority;

(4) Restrictions on the exercise of the powers of the Authority to dispose, or to limit or regulate the use, of all or any part of the properties of the Authority;

(5) The payment of the principal of or interest on the bonds, the rank or priority of any such bonds as to any lien or security, or the acceleration of the maturities of any such bonds;

(6) The use and disposition of any moneys of the Authority, including taxes payable to the Authority under any act of the legislature heretofore or hereafter adopted and revenues derived or to

be derived from the activities, operations and enterprises of all or any part of the properties of the Authority, including any part or parts theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;

(7) Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the Authority to secure the payment of the principal of or interest on the bonds, or the payment of expenses of operation or maintenance of the properties of the Authority;

(8) The setting aside of the taxes payable to the Authority under any act of the legislature heretofore or hereafter adopted and/or use of the revenues or the moneys of the Authority or reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(9) The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the properties of the Authority or any obligations constituting, or which may constitute, a lien on such properties or any part thereof;

(10) Limitations on the issuance of additional bonds, notes or other evidences of indebtedness or upon the incurrence of indebtedness of the Authority;

(11) Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of such resolution or mortgage, of any covenant or agreement with the holders of the bonds;

(12) The procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of the bonds may be amended or abrogated, the amount of bonds, the holders of which must consent thereto, and the manner in which such consent may be given or evidenced;

(13) The terms and conditions upon which the holders of said bonds, or any proportion of them, or any trustees therefor, shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which receiver may enter and take possession of the properties of the Authority and operate and maintain the same and prescribe rates, rents, fees or charges, and collect, receive and apply all revenue arising from the operation of such properties in the same manner as the Authority itself might do; or

(14) Any other matter or course of conduct which, by recital in such resolution or mortgage is declared to further secure the payment of the principal of or interest on the bonds.

All such provisions of said resolution or mortgage and of such covenants and agreements, shall constitute valid and legally binding

contracts between the Authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by mandamus or other appropriate action, suit, or proceeding at law or in equity in any court of competent jurisdiction. The circuit court, or any other court of competent jurisdiction, shall have authority to appoint a receiver for the properties of the Authority, upon the terms and conditions specified in the resolution authorizing the issuance of the bonds or in any mortgage securing the payment of the principal and interest thereof. Any mortgage given as security for the payment of said bonds may contain such agreements as the Authority shall deem advisable respecting the rights and duties of the parties to such instrument or for the benefit of whom such instrument is made, including the right to foreclose or to take possession without foreclosure. Revenue bonds issued under the authority of this section may be in such form and tenor, may bear such rate or rates of interest, and have such maturities and redemption privileges as the Authority shall determine.

Such bonds so issued may thereafter, from time to time, be refunded by the issuance or sale or exchange of refunding bonds at such times and in such forms and of such tenor, maturities or rate or rates of interest as may be agreed upon by the Authority and the holders of the bonds so refunded if such refunding is by exchange, and as may be determined by the Authority if such refunding is by sale of refunding bonds. Such Authority may restrict the source of payment of such bonds and the security given therefor to whatever extent the Authority shall deem advisable, but no such bonds shall purport to be effective to impose on the Authority or its funds or property, any liability in excess of or inconsistent with the liability authorized to be incurred or assumed by this act, or any liability inconsistent with or prohibited by any provision of the Constitution of Alabama. Such borrowing may be effected by sale of such bonds at public sale in such manner and from time to time as may be determined by the Authority to be most advantageous, and the Authority may pay all expenses, premiums and commissions which the Authority may deem necessary and advantageous in connection with any such financing. All such bonds shall be regarded as negotiable instruments. All such bonds and interest payable thereon and all instruments executed as security therefor shall be exempt from all taxation under the laws of the State of Alabama. Neither the county nor any municipality of the county shall in any event be liable for any money so borrowed; and no indebtedness of the Authority shall ever be held to be an indebtedness of the county or of any municipality of the county. The bonds provided for herein shall be issued in the name of the Authority and shall be executed in such name by the chairman of the board of directors, attested by the secretary of the

board, and thereupon shall be impressed or printed the corporate seal. Coupons attached to said bonds may be executed solely by impressing or printing thereon the facsimile signature of the chairman.

The impressing or printing of a facsimile seal of the Authority shall be sufficient; but no seal on the coupons shall be required.

(b) The power vested in the Authority to pledge taxes required by this act to be paid to the Authority or to pledge revenue of the Authority shall not be construed as undertaking or purporting to empower the Authority to pledge any tax or any revenue if such pledge is prohibited by any provision of the Constitution of Alabama. It is expressly provided, however, that the Authority shall have the power to pledge any tax paid to the Authority or revenue of the Authority, the pledge of which is authorized by the Constitution of Alabama.

**Section 7.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:46 P.M.

Act No. 89-700

H. 695—Reps. Hamilton and Starkey

## AN ACT

Relating to Lauderdale County; authorizing the county commission to levy an excise tax on persons, corporations, copartnerships, companies, agencies and associations engaged in the business of selling, distributing, storing or withdrawing from storage, for any purpose whatever, gasoline and motor fuel and substitutes therefor in said county at a certain rate; to provide for the collection and payment of such tax and to provide for the distribution of the funds derived therefrom; to authorize the Lauderdale County Commission to make reasonable rules and regulations for the collection of such tax, and to provide for the enforcement of this act and to fix the penalty for the violation of any provision of this act and of the rules and regulations prescribed by the Lauderdale County Commission for the collection of said taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the purposes of this act, the following terms shall have the respective meaning ascribed by this section:

(1) **COUNTY.** Lauderdale County.

(2) **GASOLINE.** Gasoline, naphtha and other liquid motor fuels or any device or substitute therefor commonly used in internal combustion engines; provided, that such term shall not be held to apply to those products known commercially as "kerosene oil," "fuel oil," or "crude oil" when used for lighting, heating or industrial purposes.

(3) **MOTOR FUEL.** Diesel oil, tractor fuel, gas oil, distillate or liquefied gas, kerosene, jet fuel or any substitutes or devices therefor when sold, distributed, stored or withdrawn from storage in any county for use in the operation of any motor vehicle upon the highways of this state.

(4) **PERSON.** Persons, corporations, copartnerships, companies, agencies, associations, incorporated or otherwise, singular or plural.

(5) **DISTRIBUTOR.** Any person who engages in the selling of gasoline or motor fuel in this state by wholesale domestic trade, but shall not apply to any transaction of such distributor in interstate commerce.

(6) **REFINER.** Any person who manufactures, distills, blends, compounds or mixes any one or more products in the production of gasoline or motor fuel as herein defined.

(7) **RETAIL DEALER.** Any person herein defined as a distributor who is also engaged in the selling of gasoline or motor fuel in this state at any place in this state in broken quantities.

(8) **STORER.** Any person who ships or causes to be shipped or receives gasoline or motor fuel into this state in any quantities and stores the same in any manner and withdraws or uses the same for any purpose.

(9) **USER.** Any person who uses or consumes gasoline or motor fuel in this state in any manner or for any purpose; provided, that the term "user" is not to include any refiner who has a refinery or refineries located within the state of Alabama when using gasoline or motor fuel in the manufacturing or refining process, or any person who holds a federal permit to blend motor fuels under the federal law and statutes and who pays the federal excise tax on such motor fuels directly to the federal government, when such person uses gasoline in this state in such blending process.

**Section 2.** The Lauderdale County Commission is hereby authorized to levy, in addition to all other taxes imposed by law, an



excise tax on persons selling, distributing, storing or withdrawing from storage for any purpose whatever, gasoline and motor fuel within Lauderdale County at a rate not to exceed the tax rate levied on said persons selling, distributing, storing or withdrawing from storage for any purpose whatever, gasoline and motor fuel within the city of Florence, Alabama, and to require every distributor, retail dealer or storer of gasoline or motor fuel as herein defined to pay such excise tax upon the selling, distributing or withdrawing from storage for any use, gasoline and motor fuel as herein defined in such county; provided that the excise tax levied pursuant to the provisions of this act shall not be levied upon the sale of gasoline or motor fuel in interstate commerce, and provided further that if the excise tax levied pursuant to this act upon the sale of such gasoline or motor fuel shall have been paid by a distributor or by retail dealer or storer, such payment shall be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this act shall apply to persons, firms, corporations, dealers or distributors storing gasoline or motor fuel and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of gasoline or motor fuel and its substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute therefor, or on the business of selling, distributing, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein defined; however, such tax shall not be levied by the county commission upon any gasoline or motor fuel as herein defined when used in essential governmental functions by the state of Alabama or any agency thereof, or county governing agencies, municipalities, and boards of education.

**Section 3.** On or before the 20th day of each month after this act has become effective, every person upon whom the excise tax is levied shall render to the county commission of Lauderdale County on forms prescribed by such county commission a true and correct statement of all sales and withdrawals of gasoline and motor fuels made by him or them during the next preceding month and a statement of all sales and withdrawal of gasoline and motor fuels made by him during the next preceding month of which he is liable for payment of the excise tax imposed pursuant to the provisions of this act. He shall also furnish to the Lauderdale County Commission such additional information as the Lauderdale County Commission may require upon blanks to be formulated and furnished by the Lauderdale County Commission. At the time of making such reports,

he shall pay to the Lauderdale County Commission as amount of money equal to the excise tax levied under this act. The statement herein required to be made by the distributor, storer or retail dealer shall be sworn to before some officer authorized to administer oaths.

**Section 4.** All distributors, storers and retail dealers shall keep for not less than two years within the state of Alabama at some certain place or office such books, documents or papers as will clearly show the amount of sale or withdrawals of gasoline and motor fuel made in Lauderdale County taxed under this act.

**Section 5.** Within thirty days after the effective date of the levy of the tax authorized by this act, every distributor, storer or retail dealer engaged in the sale or withdrawal of gasoline or motor fuel in Lauderdale County shall make a report on blanks furnished under Section 3 hereof to the Lauderdale County Commission, showing the place and post office address at which he is engaged in the business of distributor or storer or retail dealer in gasoline or motor fuel within Lauderdale County, which information shall be entered by the Lauderdale County Commission on a book kept for that purpose. Should such distributor, storer or retail dealer move his place of business from one business address to another such distributor, storer or retail dealer shall within thirty days thereafter notify the Lauderdale County Commission of such removal giving the former place and post office address and also the place and post office address to which his place of business has been moved. After the tax imposed under this act has become effective, no person shall become a distributor, storer or seller of gasoline or motor fuel in Lauderdale County until he shall have made such reports to the Lauderdale County Commission.

**Section 6.** It shall be the duty of the county commission of Lauderdale County to enforce the provisions of this act upon its imposing the tax thereunder, and it shall have the right itself, or its members or its agents, to examine the books, reports and accounts of every distributor, storer or retail dealer of gasoline or motor fuel on which such tax has been imposed and to make any and all rules and regulations necessary and proper for the collection of such tax. Provided, however, upon resolution of the Lauderdale County Commission, the state Department of Revenue is hereby authorized and directed to collect all taxes now or hereafter levied by said county under the provisions of this act. All persons, firms, businesses and corporations subject to and owing such taxes shall be and hereby are directed to pay the same over to the department and such payment shall be a full and complete discharge of all liability therefor to said county. The department is authorized to promulgate reasonable rules and regulations to facilitate the orderly and efficient collection of said taxes. The department is authorized to recover all costs of

collecting such taxes, not to exceed 5% of the proceeds thereof, from such proceeds and shall pay the net amount remaining thereafter to said county.

**Section 7.** If any distributor, storer or retail dealer in gasoline or motor fuel shall fail to make monthly reports or shall fail to pay the tax imposed under the authority of this act, the tax shall be deemed delinquent within the meaning of this act and there shall be added to the amount of the tax a penalty of 25%, provided, if in the opinion of the county commission of Lauderdale County a good and sufficient cause or reason is shown for such delinquency, the penalty may be remitted. The Lauderdale County Commission shall be authorized and empowered to make returns for delinquent taxpayers upon such information as it may reasonably obtain and add to that the penalty as prescribed by this act. If any person shall be delinquent in the payment of any tax imposed pursuant to the provisions of this act, the county commission of Lauderdale County shall issue execution for the collection of the same, directed to the Lauderdale County sheriff, who shall proceed to collect the same in the manner now provided by law for the collection of delinquent taxes by the county tax collector and make return of such execution to the Lauderdale County Commission. The tax herein authorized to be levied and the penalties herein provided for shall be held as a debt payable to Lauderdale County by the person against whom the same shall have been imposed or against whom the penalties shall have accrued, and all such taxes and penalties shall be a lien upon the property in Lauderdale County and elsewhere in this state of the person against whom said tax shall have been imposed and the penalties shall have accrued.

**Section 8.** The acceptance of any amount paid for the excise tax imposed under this act shall not preclude the collection of the amount actually due. However, the amount actually paid shall constitute a credit against the amount actually due.

**Section 9.** Any distributor, storer or dealer who shall violate any provisions of this act or shall fail to comply with any reasonable rule or regulation promulgated hereunder, may be restrained, and proper prosecution instituted in the name of Lauderdale County by the Attorney General of the state of Alabama, or by such counsel as the county commission of Lauderdale County shall direct, from distributing, selling, storing or withdrawing from storage any gasoline or motor fuel the sale or withdrawal of which is taxable until such persons shall have complied with the provisions of this act.

**Section 10.** Each agent or any railroad company, bus or truck operator or other transportation company or agency operating in Lauderdale County shall report to the county commission of Lauderdale County on the first day of January, April, July and October

of each year all shipments of gasoline or motor fuel as defined in this act or substitutes therefor handled by him or through the station or office at which he is the agent, and delivered to any person in Lauderdale County during the preceding three months, giving the names and address of the consignor or consignee shipping and receiving said gasoline or motor fuel or substitute therefor and the number of gallons or pounds contained in each and every shipment.

**Section 11.** The proceeds of any tax received under authority of this act shall be paid over by the county within ten (10) days after its receipt to the county general fund. Provided however, the proceeds of the tax received under authority of this act within the corporate limits of the City of Florence shall be distributed by the county in the following manner:

seventy-five percent (75%) of said taxes shall be distributed to the City of Florence, and

twenty-five percent (25%) of said taxes shall be distributed to the county general fund.

**Section 12.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 13.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 14.** This act shall become effective on the first day of the third month after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:47 P.M.

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Act No. 89-701

H. 698—Rep. Fuller

## AN ACT

To appropriate the sum of \$260,000 from the Alabama Special Educational Trust Fund to the Department of Postsecondary Education for the fiscal year ending September 30, 1989.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the Department of Postsecondary Education from the Alabama Special Educational

Trust Fund the amount of two hundred sixty thousand dollars (\$260,000) for the fiscal year ending September 30, 1989.

This appropriation shall be utilized for the operation of a summer prison education program. Said funds are to be distributed based on an equitable formula developed by the Department of Postsecondary Education.

**Section 2.** The provisions of this Act are severable. If any part of the act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:48 P.M.

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Act No. 89-702

H. 751—Rep. Biddle

### AN ACT

Relating to the governing body of Jefferson County, Alabama; to authorize the Jefferson County Commission to employ administrative assistants, confidential secretaries and to set their compensation; to exempt such positions from any merit system and to provide other employment benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Jefferson County Commission is hereby authorized to employ for and on behalf of such County two employees for each duly elected County Commissioner. One of said employees for each such Commissioner is to be known as administrative assistant to the Commissioner. The compensation for each such administrative assistant shall be fixed and determined by the County Commission. The other of said employees for each such Commissioner shall be known as confidential secretary to the County Commissioner. The compensation for each such confidential secretary shall be fixed and determined by the Jefferson County Commission. All such administrative assistants and the confidential secretaries shall be exempt from the provisions of any merit system applicable to Jefferson County employees. Provided, however, should any such administrative assistant or confidential secretary be a member of such merit system in the employ of Jefferson County at the time of their appointment,

then upon termination of such appointment such individual shall have the right to return to the employ of Jefferson County in a position which carries the same or higher classification under such merit system with full credit for time spent as such administrative assistant or confidential secretary as if the individual had continued in such merit system position instead of such administrative assistant or confidential secretary.

**Section 2.** Individuals appointed as such administrative assistant or confidential secretary are eligible to become members of any pension system applicable to County employees provided application for such membership is made to the Board or other authority administering such pension system within 30 days of appointment. This act shall not limit the authority of the said County Commission to appoint other County employees under the applicable merit or civil service system, or otherwise where authorized by any other law. No person employed in one of these staff positions shall run for elected office while so employed.

**Section 3.** All laws or parts of laws whether general, special or local in conflict with any provisions of this act are hereby repealed to the extent of any such conflict.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:49 P.M.

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Act No. 89-703

H. 777—Rep. Beasley

### AN ACT

Relating to Henry County; to levy a tax upon certain tobacco products; to provide for the collection thereof and the disposition of the proceeds; and to provide for the enforcement of the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby imposed upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Henry County a county privilege, license or tax in the following amounts:

(a) Five cents (\$.05) for each package of cigarettes, made of tobacco or any substitute therefor;

(b) Two cents (\$0.02) for each cigar of any description made of tobacco or any substitute therefor, with the exception of the cigarette sized or near cigarette sized cigars which may be taxed at the same rate as cigarettes under subsection (a) above;

(c) Two cents (\$0.02) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner as to be suitable for smoking in a pipe or cigarette;

(d) Three cents (\$0.03) for each sack, plug, package or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subsection (c) of this section; and

(e) Three cents (\$0.03) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor. Said privilege, license or excise tax shall be in addition to all other federal, state or local taxes heretofore imposed by law. Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

**Section 2.** Upon the passage of this act, every person, firm, corporation, club, or association that sells, stores or receives for the purpose in Henry County any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products.

**Section 3.** It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Henry County in the business for which the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any

part of the amount collected or absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be guilty of a violation, and upon conviction shall be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail for not more than sixty days or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 4.** It shall be the duty of the county commission of Henry County to enforce the provisions of this act upon its imposing the tax thereunder, and it shall have the right itself, or its members or its agents, to examine the books, reports and accounts of every dealer, storer or distributor engaged in the business for which the tax is hereby levied and to make any and all rules and regulation necessary and proper for the collection of such tax. Upon resolution of the Henry County Commission, the state department of revenue is hereby authorized and directed to collect all taxes now or hereafter levied by said county under the provisions of this act. Said resolution must be submitted, received and approved by the State Department of Revenue at least two months prior to the effective date of the collection and administration of this tax by the State Department of Revenue as set by the Henry County Commission. The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The State Department of Revenue, if directed by resolution of the Henry County Commission to collect all county privilege, license, or excise taxes levied under the provisions of this act, for as long as the Department is so directed, shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax. In accordance with Section 40-25-2(q), in the event the aforementioned tobacco stamps are not available, for affixing to tobacco products packages and containers, or by the authority of a duly promulgated regulation eliminating the requirement of affixing stamps, the commissioner of revenue may require a monthly report in lieu of stamps to report the amount of tax due. Said monthly report shall be in a form approved by the commissioner of revenue, and adopted by the department of revenue under the provisions of the Alabama Administrative Procedures Act, Title 41, Chapter 22, Code of Alabama 1975.

**Section 5.** The State Department of Revenue, if directed by resolution of the Henry County Commission to collect all county privilege, license, or excise taxes levied under the provisions of this



act, for as long as the department is requested to collect said levies, is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 6.** All laws, and rules and regulations of the Department of Revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully set out herein.

**Section 7.** The proceeds from the tax hereby authorized less the actual cost of collection, not to exceed ten per centum (10%), shall be paid by the State Department of Revenue to the Alabama Forestry Commission on a monthly basis. Said proceeds are to be used for the purposes of fire protection in Henry County. These funds shall be payable on a quarterly or monthly basis and will be expended solely for purposes of fire protection, prevention, fire safety, education and in order to encourage a strong volunteer fire fighters network in Henry County. The proceeds paid by the Department of Revenue to the Alabama Forestry Commission shall be distributed by the Alabama Forestry Commission to volunteer fire departments in the County as determined by the Alabama Forestry Commission in consultation with the Henry County Volunteer Fire Department Association on an equal basis, share and share alike.

**Section 8.** (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution.

(b) This statute shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of the county, which are actually resold or reshipped.

**Section 9.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall become effective October 1, 1989, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:50 P.M.

Act No. 89-704

H. 790—Rep. Butler

## AN ACT

To provide for the creation of a public corporation to be known as the "Alabama Supercomputer Authority" for the purpose of acquiring, developing and administering a state-wide supercomputer and related telecommunications system for use by governmental agencies, educational institutions and private-sector businesses and industries; to provide a procedure for incorporation; to provide for the management of the public corporation by a board of directors; to confer upon the public corporation certain powers and authorities; to provide for the appointment of a chief executive officer and staff; that the Authority will retain no intellectual property rights in products, processes, etc., developed through utilization of the system; to provide for the privacy, security and confidentiality of data maintained in the system; to transfer certain assets to the Authority; to provide for the collection and use of funds by the Authority; to provide for the tax-exempt treatment of the Authority and require it to operate as a nonprofit corporation; and to provide for the dissolution of the Authority:

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Title of Act. This act shall be known as the Alabama Supercomputer Authority Act.

**Section 2.** Legislative findings of fact and declaration of intent; construction of article. The legislature hereby makes the following findings of fact and declares its intent to be: Supercomputer technology is expected to have a significant impact on the research capabilities of research institutions, governmental agencies and private industries. The police power of the state authorizes the state to promote the prosperity and general welfare of its citizens. The development of supercomputer technology will greatly enhance research capabilities of the state's major research institutions and governmental agencies, and will attract industry to the state. For these reasons, it is the intent of the legislature by the passage of this Act to exercise its police power to authorize the incorporation by the Governor, the Director of Finance, the Director of the Alabama Development Office, the Lieutenant Governor and the Speaker of the House, of a public corporation for the purpose of planning, acquiring, developing, administering and operating a statewide supercomputer and related telecommunications system, and to vest such corporation with all powers, authorities, rights, privileges and titles that may be necessary to enable it to accomplish such purpose. This Act shall be liberally construed in conformity with the purpose expressed.

It shall be the duty of the Authority to establish, administer and operate such supercomputer system for the primary purpose of providing state-of-the-art technology in supercomputer processing for scientific research and development to governmental agencies, educational institutions, private-sector businesses and industries.

**Section 3.** Authorization and procedure for incorporation generally. The Governor, the Director of Finance, the Director of the Alabama Development Office, the Lieutenant Governor and the Speaker of the House may become a public corporation with the powers and authorities hereinafter provided, by proceeding according to the provisions of this Act.

**Section 4.** Filing of application for incorporation with Secretary of State; contents and execution thereof, filing and recordation of application by Secretary of State. To become a public corporation, the Governor, the Director of Finance, the Director of the Alabama Development Office, the Lieutenant Governor and the Speaker of the House, shall present to the Secretary of State an application signed by each of them which shall set forth (1) the name, official designation, and official residence of each of the applicants together with a certified copy of the document evidencing each applicant's right to office; (2) the date on which each applicant was inducted into office and the term of office of each of the applicants; (3) the name of the proposed public corporation, which shall be "Alabama Supercomputer Authority"; (4) the location of the principal office of the proposed public corporation, which shall be Montgomery, Alabama; and (5) any other matters relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this Act or the laws of the State, including any provisions necessary or appropriate to secure qualification as a nonprofit corporation exempt from federal income tax under I.R.C. 501(c)(3). The application shall be sworn and subscribed to by each of the applicants before an officer authorized by the laws of the State to take acknowledgements to deeds. The Secretary of State shall examine the application and, if he or she finds that it substantially complies with the requirements of this section and that the name proposed in the application is not identical with that of a person or other corporation in the State or so nearly similar thereto as to lead to confusion and uncertainty, he or she shall receive and file it and record it in an appropriate book of records in his or her office.

**Section 5.** Issuance and recordation of certificate of incorporation by Secretary of State; Secretary of State to receive no fees in connection with incorporation, dissolution, etc., of Authority. When the application has been made, filed and recorded as provided in the preceding section, the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this Act, under the Great Seal of the State, and shall record the certificate with the application, whereupon the applicants shall constitute a public corporation of the State under the name proposed in the application. No fee shall be paid to the Secretary of State for any work done in connection with the incorporation or dissolution of the Authority.

**Section 6.** Officers and directors of Authority; reduction to writing, recordation and filing of proceedings of board of directors; admissibility in evidence of proceedings of board.

(a) The Authority shall be governed by a board of directors, constituted as provided for in this section. All powers of the Authority shall be exercised by said board or pursuant to its authorization. The directors shall elect officers of the board. The presence of a majority of the members of the board of directors, or their designees, shall constitute a quorum for the transaction of business. No vacancy on the board of directors or the voluntary disqualification or abstention of any director thereof shall impair the right of a quorum of the board of directors to act. Any action which may be taken at a meeting of the directors or committee of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the directors or all the members of the committee of directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote and may be stated as such in any articles or documents filed with either the probate judge or the Secretary of State.

(b) The number of directors of the Authority shall be selected as follows: The Director of Finance and the Director of the Alabama Development Office each shall be a director, ex-officio. The Speaker of the House shall appoint a member of the House and the Lieutenant Governor shall appoint a member of the Senate. The Governor shall appoint as directors one representative of each of the doctoral-degree-granting public institutions of higher education in the State of Alabama as nominated by the president of each such institution. The Governor shall appoint four representatives from the business sector and two additional members of the board of directors as shall, in his or her judgment, be necessary for the proper and efficient functioning of the Authority, so that the representation on the board of directors shall encompass the university, state government, and business sectors of the State.

(c) Directors other than those appointed at the time the Authority is initially established, and except for ex-officio directors, shall be selected for four-year terms expiring on August 31 of the respective year. The Governor shall, at his or her discretion, indicate a length of initial term for initial appointees of from one to four years, so that each year the term of one-quarter of the members of the board of directors other than ex-officio directors shall expire. Any vacancy on the board of any director, other than an ex-officio director, shall be filled by appointment by the Governor, Speaker of the House or Lieutenant Governor, as appropriate, for the remainder of that term. Directors may be reappointed for successive terms. Should any ex-officio director cease to hold such office by reason of

death, resignation, expiration of his or her term of office, or for any other reason, then his or her successor in office shall take his or her place as an officer or director of the Authority. No officer or director shall draw any salary in addition to that now authorized by law for any service he or she may render or for any duty he or she may perform in connection with the Authority.

(d) All resolutions adopted by the board of directors shall constitute actions of the Authority, and all proceedings of the board of directors shall be reduced to writing by the secretary shall be recorded in a substantially bound book and filed in the Office of the Director of Finance. Copies of such proceedings, when certified by the secretary under the seal of the Authority, shall be received in all courts as prima facie evidence of the matters and things therein certified. The board of directors of the Authority shall meet at such times upon such notice as it shall determine or upon call of the chairperson.

**Section 7.** Powers of Authority generally. The Authority shall have the following powers among others specified in this Act:

(1) to have succession by its corporate names until dissolved as provided in this Act;

(2) to institute legal proceedings in any court of competent jurisdiction to enforce its contractual, statutory and other rights; provided that the Authority shall be considered an instrumentality of the State of Alabama and entitled to the sovereign immunity of the State; provided further, that any claim, demand or action against the Authority, or any of its directors, officers, employees or agents arising out of their official capacities, shall be presented to the Board of Adjustment, which shall have exclusive jurisdiction of any such claim, demand or action;

(3) to have and to use as a corporate seal and to alter the same at pleasure;

(4) to make and alter all needful bylaws, rules and regulations for the transaction of the Authority's business and the control of its property and affairs;

(5) to acquire, improve, maintain, equip, repair, furnish and administer supercomputer and related communications equipment and facilities which the Authority may determine to be necessary and not inconsistent with the provisions of this Act;

(6) to make the time and resources of the supercomputer system and the other facilities and equipment of the Authority available to federal, state and local governmental agencies, divisions, boards, and public corporations, including universities and other educational and research institutions and organizations; and to the businesses, industries, and others for such fees or charges as the Authority shall

determine to best support, promote and encourage research; and to the businesses and industries under such preferences, priorities, procedures, and policies as the board shall deem appropriate;

(7) to receive and accept from any source aid or contributions of money, property, labor or other items of value for furtherance of any of its purposes, subject to any limitations not inconsistent herewith or with the laws of this state pertaining to such contributions, including, but without limitation to, gifts or grants from any department, agency or entity of the federal, state or local government or business and industry;

(8) to procure such insurance and guarantees as the Authority may deem advisable, including, but without limitation to, insurance and guarantees against any loss in connection with any of its property or assets, tangible or intangible, in such amounts and from such public or private entities as it may deem appropriate, and to pay premiums or other charges for such insurance or guarantees;

(9) to acquire by purchase, gift or any other lawful means, and to transfer, convey or cause to be conveyed to the State of Alabama, any real, personal or mixed property;

(10) to make and enter into such contracts, leases, agreements and other actions as may be necessary or desirable to accomplish any corporate purpose and to exercise any power necessary for the accomplishment of the purposes of the Authority or incidental to the powers expressly set out herein;

(11) to appoint and employ such attorneys, accountants, technical consultants and other advisors, agents and independent contractors as may, in the judgment of the Authority, be necessary or desirable; and

(12) to make and enter into such contracts and agreements as may be necessary to provide technical personnel and services required for the development, maintenance and operation of the supercomputer telecommunications system, and associated functions.

**Section 8.** Employment of a chief executive officer and staff. The Authority may employ a chief executive officer who shall serve at the pleasure of the board of directors of the Authority. The chief executive officer shall perform such duties as may be assigned to him or her by the Authority and such duties as are required of him or her by law. He or she shall receive such compensation as may properly be fixed by the Authority. In addition, he or she shall be entitled to remuneration for his or her necessary traveling expenses consistent with the general law.

The qualifications of the chief executive officer shall be determined by the Authority.

The chief executive officer may employ, with the approval of the Authority, such professional, technical and clerical persons as may be authorized by the Authority; and the Authority, upon the recommendation of the chief executive officer, shall define the duties and fix the compensation of such employees. Said employees shall serve at the pleasure of the Authority. The Authority shall comply with the required procedures so that said employees shall be eligible to participate in the state employees' retirement system.

**Section 9.** Authority to have no proprietary interest in intellectual property. The Authority and its employees shall have no proprietary interest or property right in any product, process, idea, concept or procedure subject to protection under a copyright, patent or trade secret law, which was developed, invented or discovered through the utilization of its supercomputer and associated resources.

**Section 10.** Confidentiality of data; inapplicability of the public record laws; use of data by Authority; requirements for contractual agreements for supercomputer services.

(a) The privacy, security and confidentiality of data collected, stored, processed or disseminated by the supercomputer system under the provisions of this Act are the responsibility of the person, organization or entity collecting, storing, processing or disseminating such data.

(b) Data collected, stored, processed or disseminated through utilization of the supercomputer system under the provisions of this Act are not subject to the requirements of the public record laws of the State of Alabama, and are therefore not subject to public disclosure by the Authority.

(c) The Authority shall not access, use or disseminate any data collected, stored, processed or disseminated by the supercomputer system under the provisions of this Act without the prior written approval of the owner of such data. For the purposes of this Act, the person, governmental entity, educational institution, business or industry contracting for supercomputer services with the Authority shall be the owner of all data collected, stored, processed or disseminated under the terms of said contract.

(d) The Authority shall require that each person, governmental entity, educational institution, business or industry receiving supercomputer services from the Authority enter into a contractual agreement setting forth the following:

- (1) All fees and charges for use of the supercomputer system;
- (2) Each party's responsibility for the privacy, security and confidentiality of data, as well as any privacy, security and confidentiality

requirements the user shall require in its use of the supercomputer system;

(3) That the Authority, its directors, officers, employees and agents shall not be liable for damages caused by system malfunctions, hardware or software malfunctions, or other errors or omissions associated with the development, maintenance, use and operations of the supercomputer system, or the collection, storage, processing or dissemination of data through the supercomputer system;

(4) That the user will remove any program or data which the Authority determines, in its sole discretion, may cause harm or damage to the Authority's equipment, or to the data or programs of other users of the supercomputer;

(5) That the supercomputer system user shall comply in all respects with rules and regulations promulgated by the Authority under the provisions of this Act;

(6) That all statutory and/or governmental regulatory restrictions for the maintenance, storage, use or dissemination of data entered into the supercomputer system by the user shall be brought to the attention of the Authority;

(7) Any other requirements or procedures deemed necessary by the Authority for the administration and operation of the supercomputer system.

**Section 11.** Establishment of the "Supercomputer System Fund." There is hereby established in the state treasury a special fund to be known as the "Supercomputer System Fund", which shall be used exclusively for the operation of the Authority. All fees, charges, grants, gifts, appropriations or other monies received by the Authority from any source whatsoever shall be deposited in said fund. All funds contained in this special fund at the end of any fiscal year of the State of Alabama are hereby reappropriated to the Authority for the purposes specified in this Act.

**Section 12.** Exemption from taxation of properties, income, etc., of Authority. The properties of the Authority and the income therefrom, all lease agreements made by the Authority and all lien notices, mortgages, assignments and financing statements filed with respect thereto shall be forever exempt from any and all taxation of the State of Alabama.

**Section 13.** Liability upon contracts, obligations, etc., of Authority. All contracts made and obligations incurred by the Authority shall be solely and exclusively obligations of the Authority and shall not create debts of the State of Alabama.

**Section 14.** Operation of Authority as a nonprofit corporation. The Authority shall be a nonprofit corporation, and no part of its



net earnings remaining after payment of its expenses shall inure to the benefit of any private person or entity.

**Section 15.** Transfer of certain assets to the Authority. Upon issuance of the certificate of incorporation, any unencumbered funds appropriated to the Department of Finance, Division of Data Systems Management, for capital outlay and operation and maintenance of the supercomputer system, are hereby transferred to the Supercomputer System Fund to be expended in accordance with the provision of this Act.

Upon issuance of the certificate of incorporation and pursuant to a written transfer, assignment or conveyance by the State of Alabama to the Authority, all contracts, leases, management agreements, real or personal property acquired by the State of Alabama and utilized in the operation of a supercomputer center and system by the Alabama Department of Finance, shall be transferred, assigned or conveyed to the Authority without payment or other consideration. Upon such assignment, transfer or conveyance, the State of Alabama shall have no further obligations or rights to or under the items or subject matters so assigned, transferred or conveyed.

**Section 16.** Duplication of services to be avoided. The Authority shall not duplicate the services provided to agencies, departments, boards, bureaus, commissions and institutions of the State of Alabama by the Alabama Department of Finance. All telecommunications services used by the Authority must have prior approval of the Data Systems Management Division, Department of Finance, State of Alabama.

**Section 17.** Dissolution of Authority; title to property of Authority to rest in State upon dissolution of authority. At any time when the incorporators named in Section 4 of this Act determine that the services provided by the Authority are no longer of benefit to the entities served by the Authority and that all obligations of the Authority have been paid in full, the Authority may be dissolved upon the filing with the Secretary of State of a written statement for dissolution, which shall be subscribed by each of the incorporators of the Authority and which shall be sworn to by each such incorporator before an officer authorized to take acknowledgements to deeds. Upon the filing of said written statement for dissolution, the Authority shall cease and any property or other asset owned by it at the time of dissolution shall pass to the State of Alabama exclusively for I.R.C. 501(c)(3) purposes. The Secretary of State shall file and record the written statement for dissolution in an appropriate book of record in his or her office and shall make and issue, under the Great Seal of the State, a certificate that the Authority is dissolved, and shall record the said certificate with the written statement for dissolution.

**Section 18.** Validity of Act. In the event that any portion of this Act shall be declared invalid by any court of competent jurisdiction, such validity shall not affect the validity of any of the remaining portions of this Act, which shall continue effective.

**Section 19.** Effectiveness of Act. This Act shall become effective immediately upon its passage and approval by the governor or upon its otherwise becoming law.

Approved May 11, 1989

Time: 4:51 P.M.

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Act No. 89-705

H. 854—Rep. Hammett

### AN ACT

To amend Section 11-50-411 of the Code of Alabama 1975 so as to provide further for the computation and distribution of the net income of gas districts incorporated pursuant to Article 12 of Chapter 50 of Title 11 of the Code of Alabama 1975, as amended, to provide (in certain cases) for the distribution of less than all such net income if and to the extent specified in the certificate of incorporation of a gas district, and to provide that the inclusion in any such certificate of incorporation of provisions authorizing the distribution of less than all such net income shall operate both prospectively and retrospectively.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-50-411 of the Code of Alabama 1975 shall be and hereby is amended to read as follows:

“§11-50-411. All the net income of the gas transmission system or systems, for each fiscal year, of a gas district incorporated under this article shall, unless otherwise provided in the certificate of incorporation of such district, be divided, within a reasonable time after the close of each fiscal year, among its member municipalities in proportion to the amount of gas sold to or within each such municipality.

All the net income of each gas distribution system, for each fiscal year, of any such district shall, unless otherwise provided in its certificate of incorporation, be distributed and paid, within a reasonable time after the close of each fiscal year, to the municipality or municipalities within which such distribution system is located.

The term “net income” as used in the preceding two paragraphs of this section shall mean, with respect to the system or systems and for the fiscal year in question, the net income thereof computed

in accordance with generally accepted accounting principles plus depreciation and amortization less the sum of the following:

(1) all sums required during such fiscal year for the payment of principal and interest on its bonds and all sums required to be paid during such fiscal year into special funds or otherwise obligated by the terms of the mortgages, indentures of trust, security agreements or bond resolutions under and pursuant to which is bonds were issued (other than such as constituted operating expenses and were taken into consideration in the determination of "net income computed in accordance with generally accepted accounting principles"),

(2) all sums expended during such fiscal year for capital additions and improvements to such system or systems or for retirement of debt not previously funded and paid with internally generated funds from operations, not including, however, (i) any sums expended for either of such purposes out of any special funds referred to above, nor (ii) if and to the extent that the certificate of incorporation of such district expressly so provides, any sums expended for either of such purposes out of any other moneys or funds (provided, that the board of directors of such district by duly adopted resolution determines, at any time or times prior to any distribution of "net income" for the fiscal year in question, that such district has, from retained earnings, current year's earnings or otherwise, current assets sufficient to enable it to disregard, in the computation of such "net income," any such sums so expended for capital additions and improvements),

(3) an amount which, when added to the amount (if any) held in reserve at the end of such fiscal year for future expenses of operating such system or systems, will equal 50% of the estimated expenses of operating such system or systems for the then current fiscal year (not including, as an expense of operating any such system or systems, the cost of any purchased gas), and

(4) an amount which, when added to the amount (if any) held in reserve at the end of such fiscal year for future capital additions and improvements to such system or systems, will equal a reasonable reserve (the minimum amount of which may be specified in the certificate of incorporation of such district but which, subject to any such specification, shall be determined by the board of directors of such district) for future capital additions and improvements to such system or systems.

If any gas district incorporated under the provisions of this article provides, in its certificate of incorporation, for the disposition of the net income of all its gas transmission and distribution systems in the same manner, it may, for purposes of such disposition, compute net income for all its gas transmission and distribution systems as a unit rather than separately; and, in any such case, such certificate

of incorporation may provide for and authorize the distribution and payment, in the discretion of the board of directors of any such gas district, of an amount less than the net income of all such systems for any fiscal year, in which event (A) that portion of such net income for any such fiscal year not so distributed and paid shall be available for distribution and payment in future fiscal years as and to the extent provided in such certificate of incorporation, and (B) such certificate of incorporation may also specify that such provision and authorization shall operate both prospectively and retrospectively, so as to ratify and confirm (i) any prior distributions and payments of amounts less the net income of all such systems for any prior fiscal year, and (ii) the availability (for distribution and payment in future fiscal years) of any portion thereof not so distributed and paid."

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:52 P.M.

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Act No. 89-706

H. 857—Rep. Parker

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Hartselle, in Morgan County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Hartselle in Morgan County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

Beginning at the Southwest corner of Section 16, Township 7 South, Range 4 West said point being the TRUE POINT OF BEGINNING; thence North 1 degree 20' East along the West line of said Section 16 a distance of 1,945 feet, more or less to a point on the South right-of-way margin of Rustic Lane; thence South 88 degrees 00' East along the South right-of-way margin of said Rustic Lane a distance of 451.74 feet, more or less, to a point on the Westerly boundary line of the present corporate limits of the City of Hartselle, Alabama. Thence South along the Westerly boundary line of the present corporate limits a distance of 182 feet to a point;

thence East along the present corporate limits a distance of 153.52 feet to a point on the Westerly boundary line of the corporate limits; thence South 1 degree 20' West along the Westerly boundary line of the present corporate limits a distance of 1,763 feet, more or less, to a point on the South line of Section 16; thence North 88 degrees 00' West along the South line of said Section 16 a distance of 660 feet to the TRUE POINT OF BEGINNING, lying and being in the West  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  and the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 16, Township 7 South, Range 4 West and containing 23.66 acres, more or less.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:53 P.M.

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Act No. 89-707

H. 866—Rep. Blake

### AN ACT

To alter, rearrange and extend the boundaries and corporate limits of the City of Pell City, St. Clair County, Alabama, so as to annex certain territory to the city and to provide for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundaries and corporate limits of the City of Pell City, St. Clair County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of the city, the following described territory in addition to the area now embraced within such boundaries and corporate limits, to-wit:

Begin at the Northwest corner of Section 29, Township 16 South, range 4 East; thence East along the North line of said section to a point which is 272 feet, more or less, from the west right-of-way of Old Pell City-Coal City Public Road; thence in a Northerly direction a distance of 150 feet, more or less, to a stake; thence in an Easterly direction 210 feet, more or less, to a stake on the west right-of-way of the aforesaid road; thence in a Southerly direction along West side of said road for a distance of 210 feet, more or less, to a stake on the north side of said Section 29; thence East along the North line of said Section 300 feet, more or less, to a stake; thence South 290 feet, more or less, to a stake; thence East 250 feet, more or less, to a stake; thence South 360 feet, more or less, to a stake; thence West 330 feet, more or less to a stake; thence South 300 feet, more

or less, to a stake; thence East 150 feet, more or less, to a stake; thence in a Southerly direction 100 feet, more or less, to a stake; thence Westerly 100 feet, more or less, to a stake; thence in a Southerly direction 265 feet, more or less, to a stake; thence East 330 feet, more or less, to a point; thence South 660 feet, more or less, to a point; thence West 510 feet, more or less, to a point; thence in a Southeasterly and southerly direction 660 feet, more or less, to a point; thence East 490 feet, more or less, to a point; thence South 138 feet, more or less, to a point; thence West 420 feet, more or less, to a point; thence North 85 feet, more or less, to a point; thence Northwest 40 feet, more or less, to a point; thence West 140 feet, more or less, to a point; thence South 310 feet, more or less, to a point; thence East 650 feet, more or less, to a point; thence in a Southwesterly direction 650 feet, more or less, to a point on the South right-of-way of a 30 ft. road; thence in a Westerly direction 350 feet, more or less, to a point; thence South 294 feet, more or less, to a point; thence East 317 feet, more or less, to a point; thence Northeast 147 feet, more or less, to a point on the South right-of-way of a 30 ft. road; thence in a Southeasterly direction 310 feet, more or less, to a point; thence in a Southwesterly direction 165 feet, more or less, to a point; thence West 490 feet, more or less, to a point; thence South 750 feet, more or less, to a point; thence East 630 feet, more or less, to a point; thence South 370 feet, more or less, to a point; thence in a Southwesterly direction 300 feet, more or less, to a point; thence in a Westerly direction 400 feet, more or less, to a point on the west right-of-way of County Highway 45; thence Northerly along the west right-of-way of County Highway 45 1385 feet, more or less, to a point; thence west 590 feet, more or less, to a point; thence North 360 feet, more or less, to a point; thence East 110 feet, more or less, to a point; thence in a Northeasterly direction 315 feet, more or less, to a point; thence East 300 feet, more or less, to a point; thence South 100 feet, more or less, to a point; thence East 210 feet, more or less, to a point on the West right-of-way of County Highway 45; thence North along the West right-of-way of said road 633 feet, more or less, to a point; thence in a Northwesterly direction 410 feet, more or less, to a point on the East right-of-way of Old Pell City-Coal City Road; thence in a Northeasterly direction along the East right-of-way of said road 210 feet, more or less, to a point; thence Southeasterly 310 feet, more or less, to a point on the West right-of-way of said County Highway 45; thence in a Northerly direction along the West right-of-way of said County Highway 45 470 feet, more or less, to a point on the West right-of-way of Old Pell City-Coal City Road; thence West 550 feet, more or less, to a point; thence North 660 feet, more or less, to a point; thence East 780 feet, more or less, to a point on the west right-of-way of Old Pell City-Coal City Road; thence in a Northerly direction along said right-of-way 140 feet, more or less,

to a point; thence in a Westerly direction 210 feet, more or less, to a point; thence in a Northerly direction 100 feet, more or less, to a point; thence East 210 feet, more or less, to a point on the West right-of-way of Old Pell City-Coal City Road; thence in a Northerly direction along said west right-of-way 537 feet, more or less, to a point; thence West 225 feet, more or less, to a point, thence West 610 feet, more or less, to the West line of Section 29; thence North along the west section line 660 feet, more or less, to the point of beginning. Being a part of the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 20, Township 16 South, range 4 East, and a part of the West half of Section 29, Township 16 South, Range 4 East, St. Clair County, Alabama.

**Section 2.** The substantive provisions of this act shall become operative only if the act is approved by the qualified electors who reside within the territory above described voting in a referendum election to be held on the day designated by the probate judge of St. Clair County. The notice of the election shall be given by the probate judge of St. Clair County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 3, Chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge. The question shall be the adoption of Act No. —, H.B. —, of the 1989 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Pell City in St. Clair County. The City of Pell City shall pay all of the costs and expenses incident to the election. If a majority of the votes cast in the election are "Yes," the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:54 P.M.

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Act No. 89-708

H. 946—Reps. Rains, Cosby, Gray,  
Davis, Hall, Moon,  
Escott, Colvin, Butler,  
Mikell, Starkey,  
McMillan, Burke, Carter,  
Ford, Rogers, McDowell,

McClain, Johnson (RW),  
 Melton, Clark (J),  
 Freeman, Sanderford,  
 Harvey, Warren, Flowers,  
 Adams, Logan,  
 Richardson, Penry,  
 Hamilton, Hooper,  
 Parker, Newton (C),  
 Beasley, Mathis, Frazier,  
 Hogan, Goodwin, Wright  
 and Dillard

### AN ACT

To amend Section 16-33-4 of the Code of Alabama 1975, relating to benefits for dependents of blind parents, so as to provide further for such benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-33-4 of the Code of Alabama 1975, is hereby amended to read as follows:

“§16-33-4.

“In any family where the head of the household is blind, and the family income is \$9,000.00 or less per year, and there is one child; or the family income is \$12,000.00 or less per year, and there are two children; or the family income is \$15,000.00 or less per year, and there are three children; or the family income is \$18,000.00 or less per year, and there are four or more children, each such child may attend any Alabama state institution of higher learning, college or university for a period of four standard academic years of nine months each, not to exceed 36 months total, without paying any instructional fees or tuition whatsoever for such college or university attendance, or any such child may take a prescribed course in any Alabama state trade school, for the length of the prescribed course of study of his or her choosing, without the payment of any instructional fees or tuition whatsoever. Training under this section must be initiated within two years after high school graduation, but in no case after the child's twenty-third birthday, and must be completed within five years after its initiation, except for delays caused by military service during the period, and in no case may training be received under this chapter beyond the thirtieth birthday of such child. Provided further, that in addition to the aforementioned benefits, any such child shall be provided with all necessary textbooks for the length of his or her prescribed course of study. All costs of such textbooks shall be borne by the state department of education which shall be entitled to an appropriation from the special education trust fund to cover all costs of providing such textbooks. Said department shall promulgate and implement such administrative rules



and regulations as shall be necessary to make such textbooks conveniently available to children who qualify for such textbook benefits under the provisions of this chapter.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:55 P.M.

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Act No. 89-709

H. 948—Rep. Britnell

### AN ACT

Relating to Marion County, to amend Act No. 79-259, H. 665 of the 1979 Regular Session (Acts of 1979, p. 399) pertaining to the county commission's authority in regard to constructing and maintaining certain roads and driveways, so as to grant said authority to municipalities located in Marion County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5 of Act No. 79-259, H. 665 of the 1979 Regular Session (Acts of 1979, p. 399) is hereby amended to read as follows:

“Section 5. It is further stipulated that the provisions of this act shall be applicable to municipalities located in Marion County, conditioned upon a resolution being properly passed and recorded in a business meeting of the city council or governing body of said municipality proclaiming the application of the provisions of this act. Be it further provided that the provisions of this act are applicable only when each project for action is approved in an official meeting of the appropriate governing body and properly recorded in the minutes of that meeting.

“All laws or parts of laws which conflict with this act are repealed.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:56 P.M.

Act No. 89-710

H. 950—Reps. Breedlove, Clark (J),  
Blakeney, Butler, Venable,  
White (F), Carter,  
Thomas, Laird, Fuller,  
Adams, Headley,  
Buskey (JL), Bryant,  
Beasley, Carothers,  
Johnson (RG), Biddle,  
Freeman, Mathis, Hall,  
Cosby, Harper, Hammett  
and Buskey (JE)

### AN ACT

To amend Act 88-824, so as to extend amnesty for payment of ad valorem taxes on tangible personal property by revising the date for filing, assessment, and payment of taxes to June 30, 1989.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-7-23, of the Code of Alabama 1975, as amended by Act 88-824, H. 234 of the 1988 First Special Session is hereby amended to read as follows:

“§40-7-23.

“(a) Whenever the tax assessor, county revenue commissioner or other assessing official shall discover that any property, including any improvements on real estate assessed as vacant property, has escaped taxation in any assessment within five years next preceding the current year, he shall list, return and value said property for assessment for the years during which same has escaped taxation and shall also endorse on such returns the year or years for which the property has escaped taxation and, except as provided in subsection (b) hereinafter, the accrual of a penalty of 10 percent of the taxes assessed thereon for each year.

“(b) Any taxpayer who escaped assessment of tangible personal property for taxable years ending on or before September 30, 1987 shall not have accrued to his account the ten percent penalty, provided:

“(1) he files a proper tax return and assesses such property not later than June 30, 1989;

“(2) he makes or agrees to be subject to an escape assessment for the tax year ending September 30, 1988; and

“(3) he pays the tax due on such escape assessment without any penalty not later than June 30, 1989.

“(c) Any taxpayer who fulfills the requirements of subsection (b) of this section to avoid penalty, shall not be liable for any unpaid ad valorem tax on the tangible personal property so assessed for the tax years ending on or before September 30, 1986.

“(d) The assessing official shall give notice of an escape assessment by certified or registered mail, return receipt requested, to the owner or to the agent or attorney of such owner, notifying such person to appear before the assessing official in person, or by agent or attorney, within 20 days after such notice is given, if there is an objection to the assessment, and notifying such person that if no objection is made said assessment will be made final on the twentieth day after the mailing of such notice of escape assessment. If on the date set for hearing such objection the person against whom the assessment is made fails to appear or if in the opinion of the assessing official the assessment should not be changed and the assessment is proper, then the assessing official shall make the assessment final. The property owner, if he has filed objection to such assessment, may appeal from the assessment to the circuit court of the county in which the property is located within 30 days after such assessment becomes final, by giving notice in writing to the assessing official and by filing a copy of such notice with the clerk of the circuit court and giving bond to be approved by and filed with the clerk of the circuit court to cover costs, and thereafter such case shall be tried as other tax cases appealed to the circuit court from the board of equalization. The taxpayer or the state shall have the right to demand a trial by jury by filing a written demand therefor, within 10 days after the appeal is taken.

“(e) Whenever any escape assessment is made final the taxes shall immediately become due, and the assessor, deputy assessor or other assessing official shall forthwith certify the assessment to the tax collector, or other collecting official, who shall forthwith collect same, unless at the time of taking the appeal the taxpayer has executed a supersedeas bond with sufficient sureties to be approved by the clerk of the circuit court in double the amount of the taxes, payable to the state of Alabama, conditioned to pay all taxes, interest and costs due the state, county or any agency or subdivision thereof.”

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and signature by the Governor or otherwise becoming law.

Approved May 11, 1989

Time: 4:57 P.M.

Act No. 89-711

H. 1019—Rep. Campbell

## AN ACT

Relating to Calhoun County; to require the installation and maintenance of an improved system of indexing documents affecting the title to property and other documents recorded in the office of the Judge of Probate; to provide for the collection and disposition of a special indexing fee; and to provide said system shall constitute official and permanent records in Calhoun County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only in Calhoun County. The purpose of this act is to facilitate the use of public records in property transactions in Calhoun County by providing for the installation of an improved system of indexing of instruments and documents affecting the title to real and personal property that are recorded in the office of the Judge of Probate and for the indexing of other instruments, documents and other uses in the discretion of the Judge of Probate.

**Section 2.** The following words and phrases, including plural of any thereof, whenever used in this act, shall have the following respective meanings:

(1) "Real property instrument" means and includes any instrument or document affecting the title to real property that may now or hereafter be filed for record in the Probate Office pursuant to the applicable requirements of the laws of this state, including but without limitation to, section 12-13-43, Code of Alabama 1975, and all statutes providing for the filing and recording of notices or statements of liens of any kind, notices of judgment, and plats or maps showing subdivisions of real estate.

(2) "General property instrument" means a real property instrument that affects the title to personal property as well as real property.

(3) "Personal property instrument" means any instrument or document affecting the title to personal property only (as distinguished from real property) that may be now or hereafter titled for record in the Probate Office, in accordance with the applicable requirements of the law of this state, including and particularly said sections 35-4-50 and 35-4-90, Code of Alabama 1975.

(4) "Improved indexing system" means a system of indexing real property instruments and personal property instruments in the probate office, and in the discretion of the Judge of Probate, of indexing other instruments and documents, which system when completed,

will consist of equipment necessary and suitable to prepare and index records.

**Section 3.** The Judge of Probate is hereby authorized to provide for the installation and thereafter for the maintenance of an improved indexing system in the probate offices of the county. The initial installation of the improved indexing system shall include the following:

(1) The acquisition of the equipment provided for in the definition hereinabove set forth of an improved indexing system;

(2) The establishment of procedures for the continued indexing and filing of all instruments and records that will, after the effective installation date, constitute a part of the improved indexing system;

(3) The initial installation of the improved indexing system shall be performed by a person or persons, firm or corporation engaged in records management business and experienced in setting up county records; and such initial installation shall be supervised and inspected by a person who is experienced in handling records pertaining to abstracts and title. Following its installation in the county, the improved indexing system shall be thereafter maintained in the county and all real property instruments, general property instruments, and personal property instruments and other documents and records herein provided to constitute a part of said system, that may be thereafter filed for record in the probate office of the county shall be in accordance with the aforesaid improved indexing system. Each real property instrument and each personal property instrument shall be operative as a record from the time of its delivery to the Judge of Probate of the county, in accordance with the provisions of existing law, including particularly section 12-13-43, Code of Alabama 1975.

**Section 4.** Following the effective installation date, real property instruments, personal property instruments, and other documents and records provided herein to be indexed with computer-generated indexes to be filed in binders, shall constitute the official record of such instruments for the purpose of section 12-13-43, Code of Alabama 1975.

**Section 5.** All provisions of the laws of Alabama with respect to the recording of real property instruments, personal property instruments, general property instruments, miscellaneous instruments and other instruments and records that may constitute part of an improved indexing system installed hereunder (including without limitation to the provisions of section 12-13-43, Code of Alabama 1975, and the provisions of all statutes respecting the filing and recording of notices or statements of liens of any kind, notices of Lis Pendens, declarations of claims or exemption, certificates of judgment, or plats or maps showing subdivisions of real estate) that

are not inconsistent with the provisions of this act shall continue in effect with respect to an improved indexing system installed hereunder, the recording of the instruments therein, and the duties of the Judge of Probate with respect thereto.

**Section 6.** Thirty days after the date this act becomes applicable to Calhoun County, a special indexing fee of \$2.00 shall be paid to the county, and collected by its Judge of Probate, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said Judge of Probate and for the recording of other instruments and documents in the probate office in the discretion of the Judge of Probate of the county, and on and after such date, no such instrument shall be received for record in the office of said Judge of Probate unless the said special indexing fee of \$2.00 is paid thereon. Said special indexing fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office in the discretion of the Judge of Probate of the county. All special indexing fees so collected shall be paid into the Calhoun County general fund. These funds shall be used for an improved indexing system and/or other equipment, maintenance and services necessary for the improvement of the office of Judge of Probate.

**Section 7.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:58 P.M.

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Act No. 89-712

H. 1021—Rep. Hogan

## AN ACT

Relating to Walker County; amending Sections 6 and 14 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263) as amended, relating to the county civil service system, so as to provide further for the compensation of the members of the civil service board; and to provide for electronically recorded hearings and for transcripts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 6 and 14 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263) as amended, are hereby amended to read as follows:

"Section 6. The chairman of the board shall be entitled to receive a total of \$400.00 per month and the members of the board shall be entitled to receive a total of \$300.00 per month and the board shall meet not less than once per month and no more than four times per month. The chairman shall be present at all examinations given by the clerk of the board. The board shall have the power to appoint a clerical assistant and engage legal counsel of its own choice, who shall be paid by the county. No clerical assistant shall have any other employment other than with the board."

"Section 14. (a) The governing body of the county, any member of the governing body, or the head of any department or office can remove, discharge or demote any employee, officer or official of the county who is subject to the provisions of this act and who is directly under such governing body, member thereof, or department head, provided that within five days a report in writing of such action is made to the board, giving the reason for such removal, discharge or demotion. The employee shall have ten days from the time of notification of his discharge, removal or demotion in which to appeal to the board. The board shall thereupon order the charges or complaint to be filed forthwith in writing and shall hold a hearing de novo on such charges. No permanent employee, officer, or official of the county whose employment comes within the jurisdiction of this act, and whose probationary period has been served, shall be removed, discharged, or demoted except for some personal misconduct, or fact, rendering his further tenure harmful to the public interest, or for some cause affecting or concerning his fitness or ability; and if such removal, discharge or demotion is appealed to the board, then the same will become final only after a hearing upon written charges of complaint has been had and after an opportunity has been given him to face his accusers and be heard in his own defense. Pending a hearing on said appeal, the board acting on evidence presented to them, may suspend the affected employee; and after such hearing the board may order said employee reinstated, demoted, removed, discharged or take such other disciplinary action as in their judgment is warranted by the evidence and under the law. Charges may be filed by any resident citizen of the county as follows: The charges must be in writing, must set forth succinctly the matters complained of, and must be sworn to before any member of the board or before any person authorized to administer oaths. Upon the receipt of such charges, the board, after due consideration, shall determine whether in its opinion it considers that the good of the service will be served

by a trial thereon; and, if not, such charges may be dismissed by the board. If in the judgment of the board such charges are of a minor nature, such charges may be referred by the board to the proper department head who shall make an investigation of the charges and make his recommendation to the board within such time as the board may prescribe, as to what disciplinary action, if any, should be taken. After such recommendation is made by the department head and after due notice is given to the affected employee of the receipt of such recommendation and the contents thereof, the board may, in its discretion, adopt and order executed the action recommended by the department head or any part thereof. However, if the complainant or the affected employee, or both of them, objects to the recommendation of the department head, the board shall hold a public hearing *de novo* on the charges, and take such disciplinary action as in their judgment is warranted by the evidence and under the law. All hearings before the board shall be open to the public. All testimony given in all hearings before the board shall be electronically recorded and in the event of an appeal, a transcript of the hearing shall be prepared by the secretary of the Walker County Civil Service Board. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case. In all proceedings before the board, the deputy district attorney or other like officer of the county may appear and prosecute all charges instituted by the county governing body or any member thereof or by any department head, when requested or directed to do so by such county governing body. It shall not be the duty of the deputy district attorney or other like officer to prosecute any charges brought by a private citizen. In all proceedings before the board, the deputy district attorney or other like officer may appear and represent the interests of the county, and he shall also give such legal advice and legal assistance to the board as may be requested by it.

“The board and its specially authorized representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this act. The sheriff of Walker County, in person or by deputy, shall serve all processes of the board, and shall attend upon and preserve order at all public hearings conducted by the board. In case a person refuses to obey such subpoena, the board or its representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order requiring the person to appear before the board or its representative and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena order may be punished by the court as for contempt. The fees of



witnesses for the attendance and travel shall be the same as fees for witnesses in the circuit courts of this State, which fees shall be paid from the treasury of the county.

“(b) Any person aggrieved by a decision of the board may appeal such decision to the circuit court of Walker County in equity within thirty days from the rendition of such decision by the board. Review by the court shall be without a jury and be confined to the record, and to a determination of the questions of law presented; the board’s findings of fact shall be final and conclusive.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 4:59 P.M.

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Act No. 89-713

H. 1023—Reps. Parker and Drake

## AN ACT

Relating to portions of Morgan County, to authorize the county governing body to levy an additional ad valorem tax, to provide said tax shall be subject to voter approval at a referendum, to provide for the collection and administration of said tax, to provide for the distribution of funds derived from said tax to volunteer fire departments and certain emergency medical technicians, to establish certain standards for eligible volunteer fire departments, to provide for the expending and accounting of said funds, to provide for the treatment of funds upon dissolution or abandonment of a volunteer fire department and to provide that the county shall be immune from certain liability.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only to those portions of Morgan County located outside the corporate boundaries of the City of Decatur and the City of Hartselle.

**Section 2.** The legislature hereby declares that all volunteer fire departments and emergency medical technicians that are members of the volunteer fire departments that receive funds pursuant to this act are organizations which are public in nature, as they protect the health, safety and welfare of the citizens of the county.

**Section 3.** Pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the governing body of Morgan County after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem

tax on the taxable properties in those portions of Morgan County located outside the corporate boundaries of the city of Decatur and the city of Hartselle. The county governing body may impose an additional ad valorem tax in the amount of three (3) mills on each dollar of taxable property in said portions of Morgan County.

**Section 4.** The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors residing in those portions of Morgan County located outside the corporate boundaries of the city of Decatur and the city of Hartselle who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901. On the ballot to be used at said election, the proposition to be voted on shall be stated substantially as follows: "Do you favor increasing the rate of ad valorem tax by an additional 3 mills on each dollar of taxable property with the proceeds being designated for volunteer fire departments and emergency medical technicians who are members of volunteer fire departments?"

**Section 5.** The tax shall be levied, collected, administered and enforced at the same time, in the same manner, and under the same requirements and laws as are the ad valorem taxes of the state. Officials collecting or assessing said tax shall be entitled to the same fees and compensation as are provided for collecting and assessing other ad valorem taxes. The proceeds of said tax shall be paid into the county general fund. Within thirty days of payment into the county general fund, the county governing body shall pay said funds to the Morgan County Association of Volunteer Fire Departments, Inc., herein referred to as the county association. The county association shall divide said funds equally among all eligible volunteer fire departments. The county governing body and the county association may jointly establish rules and procedures regarding the transfer, investing, accounting and handling of said funds.

**Section 6.** An eligible volunteer fire department, for the purposes of this act, shall mean a volunteer fire department located in Morgan County that is certified under the Alabama Forestry Commission guidelines and is a member in good standing of the Morgan County Association of Volunteer Fire Departments, Inc.

**Section 7.** Funds paid to eligible volunteer fire departments shall only be expended for fire protection and emergency medical services, including training, supplies, buildings, capital improvements and equipment. Said funds may not be expended for salaries, food, drink, social activities or fund-raising activities. After receiving funds, the volunteer fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, the department shall file a form with the county association

detailing the expenditure of all funds during the previous twelve months and setting out a schedule of all proposed projects. Said filing shall also account for all unspent funds and whether said unspent funds have been obligated. Unspent funds that have not been obligated which exceed the amount of total receipts for the prior year from this tax, shall be returned to the county association for redistribution. The county association shall supply the accounting forms to each eligible volunteer fire department.

**Section 8.** Upon dissolution or abandonment of any eligible volunteer fire department, any remaining funds derived from this act or any assets purchased with funds derived from this act shall, after all indebtedness has been satisfied, be transferred to the county association.

**Section 9.** The personnel of volunteer fire departments and emergency medical technicians that are members of volunteer fire departments provided for in this act shall not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said personnel of volunteer fire departments and emergency medical technicians units.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** If the additional tax rate prescribed in section 3 of this act is not approved by a majority of the qualified electors as prescribed in section 4, the provisions of this act shall be null and void.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:00 P.M.

Act No. 89-714

H. 1024—Rep. Parker

# AN ACT

Relating to Morgan County; to provide for a voluntary, long-range business, education, and economic planning commission to be known as the "Morgan County

2015 Commission"; to provide for the composition, officers and duties of the commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Morgan County, there is hereby created the "Morgan County 2015 Commission" (hereinafter called the commission), for the long-term planning of economic development, business and education in the county, whose members serve on a voluntary basis and without compensation.

**Section 2.** (a) The commission shall be composed of volunteer residents of the county who submit written application for appointment to the Morgan County Legislative Delegation as provided herein for the following positions: Director, Deputy Director, Associate Directors for the areas described in subsection (b) hereof, and other commission membership positions as the delegation may offer.

(b) Associate Directorships shall be available for each of the following areas:

- |                            |                             |
|----------------------------|-----------------------------|
| (1) Education              | (6) Environment             |
| (2) Economic Development   | (7) Governmental Relations  |
| (3) Business and Industry  | (8) Regional Development    |
| (4) Recreation and Tourism | (9) Any other areas deemed  |
| (5) General Information    | necessary by the delegation |

(c) The legislative delegation shall make all appointments for a period of 5 years for each position herein described or created by the delegation. Successors shall be appointed by the delegation for 5 year terms. Vacancies for unexpired terms shall be made by the delegation.

**Section 3.** No direct appropriations from the state shall be made to the commission. The commission is authorized, however, to receive, hold and expend any public or private grant(s) for a specific purpose and is authorized to receive financial or other assistance from any governmental agency if approved by the agency for the purposes of, without limitation, the hiring of clerical or office personnel, supplies, furniture, office space or other accommodations or equipment.

**Section 4.** (a) The commission shall prepare a 25 year plan, a 20 year plan, a 15 year plan, a 10 year plan and a 5 year plan to correspond respectively with the years 2015, 2010, 2005, 2000 and 1995. The plans shall contain comprehensive projections, observations, suggestions and comments which express the goals, responsibilities, needs, desires and aspirations for the long range planning for the citizens of Morgan County.

(b) These plans shall be presented by the 2015 Commission to the county legislative delegation, and shall be made available to interested citizens of the county as follows:

(1) The 1995 plan shall be presented between December 1, 1990 and January 15, 1991.

(2) The 2000, 2005, 2010, and the 2015 plans shall be presented as soon as possible, but not later than 5 years prior to January 1 of each said year.

**Section 5.** The commission shall not engage in partisan politics in any form concerning its official duties.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:01 P.M.

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Act No. 89-715

H. 1026—Rep. Parker

### AN ACT

Relating to Lawrence County; to amend Section 1 of Act No. 86-405, H. 780 of the 1986 Regular Session (Acts 1986, p. 595) relating to the salary and expense allowances of the county superintendent of education so as to provide further for such salary and allowances.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 86-405, H. 780 of the 1986 Regular Session (Acts 1986, p. 595) is hereby amended to read as follows:

“Section 1. Effective as of July 1, 1989, the combined monthly total salary heretofore or hereafter provided by law for the Lawrence County superintendent of education, shall never exceed by more than \$860.00, the monthly amount of any salary being paid, from time to time, to the highest paid regular classroom instructor employed by the county school system. In addition, any amounts directly or

indirectly disbursed for expenses to any superintendent serving after June 30, 1989, shall be in accordance with the same policy and procedure as provided for expenses for regular classroom teachers in the county. The county board of education shall take such action as shall be necessary to implement the provisions of this act."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:02 P.M.

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Act No. 89-716

H. 1029—Rep. Parker

## AN ACT

Relating to Lawrence County, to increase certain court costs and provide for the distribution of the additional court costs.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lawrence County, in addition to all other costs and charges in district and juvenile court cases with the exception of small claims cases, a fee of \$5.00 shall be charged and collected by the Clerk of the district court. The monies derived from the additional fees provided for by this Act shall be paid into the county treasury and said fund shall be kept as a separate fund in the county treasury. The fund shall be known as the juvenile probation services fund and shall be used and expended by the district judge as provided in Section 2.

**Section 2.** The district judge is hereby authorized to requisition expenditures from the juvenile probation services fund for any and all expenses to be incurred in the administration of juvenile justice and juvenile probation services. The treasurer of Lawrence County shall distribute monies from said fund upon requisition made to the treasurer by the district judge.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:03 P.M.

Act No. 89-717

H. 1031—Rep. Lindsey

## AN ACT

Relating to Cherokee County; levying a county privilege, license or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; providing for the collection and enforcement of the tax; and appropriating the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby imposed upon every person, firm or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Cherokee County a county privilege, license or excise tax in the following amounts:

(1) Nine cents for each package of cigarettes, made of tobacco or any substitute therefor.

(2) Three cents for each cigar of any description made of tobacco or any substitute therefor.

(3) Nine cents for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which is prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(4) Nine cents for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subdivision (3) of this section.

(5) Nine cents for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

(6) Fifteen cents for each package of tobacco paper, both gummed and ungummed.

Said privilege, license or excise tax shall be in addition to all other taxes heretofore imposed by law.

Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

**Section 2.** Upon passage of this act there is levied on every person, firm, corporation, club or association that sells or stores or receives for the purpose of distribution in Cherokee County any

cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and the tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products. It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Cherokee County in the business for which the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than \$100.00 or imprisoned in the county jail for not more than 60 days, or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 3.** The tax hereby levied shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The state department of revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax. In accordance with Section 40-25-2(q), in the event the aforementioned tobacco stamps are not available, for affixing to tobacco products packages and containers, or by the authority of a duly promulgated regulation eliminating the requirement of affixing stamps, the commissioner of revenue may require a monthly report in lieu of stamps to report the amount of tax due. Said monthly report shall be in a form approved by the commissioner of revenue, and adopted by the department of revenue under the provisions of the Alabama Administrative Procedures Act, Title 41, Chapter 22, Code of Alabama 1975.

**Section 4.** The state department of revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate



the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 5.** All laws, and rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as if set out herein.

**Section 6.** The proceeds from the tax hereby levied, less the actual costs of collection not to exceed ten per centum, shall be paid by the state department of revenue into the county general fund of Cherokee County.

**Section 7.** (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution.

(b) This act shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective on the first day of the third month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:03 P.M.

Act No. 89-718

H. 1035—Rep. Venable

# AN ACT

To authorize the governing body of Wetumpka to establish an Historic Preservation Commission and an Architectural Review Board in order to preserve and protect buildings, sites, structures, areas and districts of historic significance, architectural, archaeological and aesthetic heritage within Wetumpka, and to promote these attractions to tourists and visitors; to provide for the membership, the qualifications and terms, the powers, duties and appointments to the Commission and Board; to prescribe that certain reporting shall be made to the Alabama Historical Commission and to

the local governing body; to provide for the reimbursement of expenses of members, the rules of procedure for operations and notice of meetings; to provide that the Commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes; to prescribe that certain restrictions shall be placed on designated properties, and provide exceptions thereto; and to provide for appeals and other judicial processes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The purposes of this act are to provide for the establishment of an Historic Preservation Commission and Architectural Review Board, and to promote the educational, cultural, economic and general welfare of Wetumpka through the preservation and protection of buildings, sites, structures, areas and districts of historic significance and interest; through the preservation and enhancement of the national, state and local historic, architectural, archaeological and aesthetic heritage found in Wetumpka's historic and aesthetic attraction to tourists and visitors.

**Section 2.** The governing body of Wetumpka electing to enact an ordinance, pursuant to this act, to provide for the creation, protection and enhancement of historic properties or historic districts, shall establish an Historic Preservation Commission, hereinafter sometimes called the Commission, and may establish one or more Architectural Review Boards, hereinafter sometimes called the Board, to carry out the purposes and responsibilities of that ordinance.

**Section 3.** (a) An Historic Preservation Commission created by an ordinance enacted pursuant to this act shall be composed of not less than seven (7) members, who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law, or who shall be residents of an historic district designated pursuant to that ordinance. A majority of the members of the Commission shall be bona fide residents of the territorial jurisdiction of Wetumpka. Not more than one-fifth (1/5) of the members of the Commission shall be public officials.

(b) Members of the Commission shall be nominated by the chief executive officer of Wetumpka and appointed by the legislative body of Wetumpka. Nomination and appointment of members of the Commission shall be made so as to ensure that the Commission will be composed of persons with as much of the training and experience specified in Section 3(a) of this act as is possible.

(c) Except for the original members of the Commission, members of the Commission shall serve three (3) year terms and shall be appointed in such a manner so as to serve overlapping terms. Two (2) of the original members of the Commission shall be appointed to serve one (1) year terms, two (2) of the original members of the Commission shall be appointed to serve two (2) year terms, and the

remainder of the original members of the Commission shall be appointed to serve three (3) year terms. Members of the Commission may be reappointed.

(d) Members of the Commission may be removed for cause by the legislative body of Wetumpka.

(e) Vacancies on the Commission shall be filled by persons nominated by the chief executive officer of Wetumpka and appointed by the legislative body of Wetumpka. Such appointments shall be for the unexpired term of the member replaced.

(f) Members of the Commission shall elect a chairman and a vice-chairman and such other officers as the members deem necessary. The Commission shall adopt rules of procedure and bylaws to govern its operations and shall communicate those rules of procedure and bylaws to the elected officials of Wetumpka. The rules of procedure and bylaws of the Commission shall specify what number of members of the Commission constitutes a quorum.

(g) Members of the Commission shall serve without compensation but may be reimbursed for expenses incurred on behalf of the Commission in accordance with the rules and regulations for the reimbursement of expenses adopted by the Commission.

(h) The Commission may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the ordinance enacted pursuant to this act.

(i) The Commission shall prepare and file with the elected officials of Wetumpka and with the Alabama Historical Commission an annual report of its activities.

(j) Meetings of the Commission shall be public meetings and shall be held at times and places and pursuant to such notices specified in the ordinance creating the Commission.

**Section 4.** The Commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes. The Commission shall have tax exempt status, and the properties of the Commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

**Section 5.** The Commission created by an ordinance enacted pursuant to this act shall be authorized to:

(1) Preserve and protect buildings, structures and sites of historic and architectural value in the historic districts designated pursuant to that ordinance;

(2) Prepare a survey of all property within the territorial jurisdiction of Wetumpka;

(3) Recommend to Wetumpka buildings, structures, sites and districts for designation as historic properties of districts;

(4) Restore and preserve any historic properties acquired by Wetumpka or acquired by the Commission;

(5) Promote acquisition of facade and conservation easements by Wetumpka or by the Commission;

(6) Develop and conduct educational programs on historic projects and districts designated pursuant to the ordinance and on historic preservation subjects;

(7) Make such investigations and studies of matters relating to historic preservation as Wetumpka or the Commission deems necessary and appropriate for the purposes of this act;

(8) Apply for funds to carry out the purposes and responsibilities of the Commission from municipal, county, state, federal and private agencies and sources;

(9) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in carrying out the purposes and responsibilities of the Commission;

(10) Investigate, survey and process nominations of properties to the National Register of Historic Places;

(11) Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;

(12) Contract with other municipal, county, state, federal and private agencies and organizations to perform historic preservation related functions;

(13) Exercise such further powers as the Commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the Commission.

**Section 6.** (a) On recommendation of the Historic Preservation Commission, the City of Wetumpka may designate historic properties and historic districts within the territorial jurisdiction of Wetumpka.

(b) The Commission shall not recommend designation of an historic property or historic district unless such recommendation is based on a finding of a survey of such property or district conducted by or for the Commission in accordance with the rules and regulations of the Alabama Historical Commission.

(c) The Commission shall not recommend designation of an historic property or historic district unless it finds that the building, structures, site or district is identified with or represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation or has had a significant relationship with the life of an historic person or event, representing a major aspect of the history of the locality, region, state or nation, or is a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation. In the case of an individual building or structure, the Commission may recommend designation as an historic property if the Commission finds that the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of Wetumpka or which is unique to Wetumpka. In the case of a district, the Commission may recommend designation as an historic district if the Commission finds that the district contains vernacular structures which contribute to an overall character and sense of place which is representative of Wetumpka.

**Section 7.** (a) Before the Commission shall recommend the designation of an historic property or historic district, it shall hold a public hearing on the proposed recommendation of historic designation to be held at a time and place, and pursuant to such notices specified in the ordinance creating the Commission.

(b) In addition to the notice of the public hearing required pursuant to subsection (a) of this section, all owners of property to be included in the proposed historic designation, as such owners are identified in the relevant property tax rolls, shall be notified by public notice of the public hearing to be held by the Commission on the proposed recommendation of historic designation.

**Section 8.** Upon the designation of any historic property or historic district by Wetumpka pursuant to an ordinance enacted pursuant to this act, the Historic Preservation Commission shall give notice in writing of that designation to all agencies of Wetumpka and to all owners of property included in the historic designation.

**Section 9.** (a) No change in the exterior appearance of an historic property or any building, structure or site within an historic district may be made, and no historic property may be demolished, and no building or structure in an historic district may be erected or demolished unless and until a certificate of appropriateness for such change, erection or demolition is approved by the Commission. Utility poles, lines and equipment shall not be considered as structures within the meaning of this act; however, signs shall be considered as structures and no sign on an historic property or in an historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the Commission. The

requirement of a certificate of appropriateness shall apply to public property which has been designated as an historic property or which is contained in an historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts. Demolition by neglect and the failure to maintain an historic property or a structure in an historic district shall constitute a change for which a certificate of appropriateness is necessary. The Commission may include selection of paint colors as changes requiring a certificate of appropriateness. The painting of originally unpainted surfaces shall require a certificate of appropriateness.

(b) The Commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness, and no certificate of appropriateness shall be approved unless an application for a certificate of appropriateness is submitted to the Commission accompanied by such drawings, photographs and plans, as may be required by the Commission.

(c) The Commission shall adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness.

(d) Applications for certificates of appropriateness shall be considered by the Commission at public meetings, held at times and places and pursuant to such notices as are specified in the ordinance creating the Commission.

(e) The commission may adopt an expedited procedure for approval of routine maintenance to historic properties, or to buildings or structures in historic districts. Such expedited procedure may waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting.

(f) The Commission shall keep a record of all applications for certificates of appropriateness and requests for approval of routine maintenance and of all of its proceedings.

**Section 10.** Any person having a request for a certificate of appropriateness denied by the Historic Preservation Commission, or Architectural Review Board as hereinafter provided, may appeal such denial to the circuit court of Elmore County.

**Section 11.** (a) The Commission shall approve an application and issue a certificate of appropriateness if it finds that the proposed change, erection or demolition conforms to the general design standards established by the Commission, is compatible with the character of the historic property or historic district and does not detract from the value of the historic property or historic district. In making this

determination, the Commission shall consider, in addition to any other pertinent factors, the historic and architectural features involved and the proposed change thereto, and the relationship thereof, to the exterior architectural style, and pertinent features of other structures in the immediate neighborhood.

(b) In its review of applications for certificate appropriateness, the Commission shall not consider interior changes or use having no effect on the exterior of a building or structure.

(c) In the event the Commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons thereof, in writing, to the applicant. The applicant may make modifications to its plans and resubmit the application for reconsideration at any time after doing so.

(d) In cases where the application is for a change in the exterior of the building or structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits, and in such case, no building permit shall be issued.

**Section 12.** The Commission, or Wetumpka, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any change in the exterior of a building or structure which is either an historic property or which is contained in an historic district, except in compliance with the provisions of an ordinance adopted in conformity with this act, or to prevent any illegal act or conduct with respect to such historic property, or historic district, and to recover any damages which may have been caused by the violation of that ordinance.

**Section 13.** (a) Wetumpka, enacting an ordinance pursuant to this act, may elect to create an Architectural Review Board, hereinafter sometimes called the Board, to perform the duties and responsibilities of the Historic Preservation Commission in accepting, considering and approving or rejecting applications for certificates of appropriateness, as set out in Sections 9, 10, 11 and 12 of this act.

(b) If such Board is created, it shall be composed of not less than five (5) members who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law. A majority of the members of the Board shall be bona fide residents of the territorial jurisdiction of Wetumpka. No elected public officials shall serve as members of the Board. Not more than one-fifth (1/5) of the members of the Board shall be public officials.

(c) Members of the Board shall be nominated by the chief executive officer of Wetumpka and appointed by the legislative body

of Wetumpka. Nomination and appointment of members of the Commission shall be made so that the Board will be composed of persons with as much of the training and experience specified in Section 13(b) as possible.

(d) Except for the original members of the Board, members of the Board shall serve three (3) year terms and shall be appointed in such manner as to serve overlapping terms. Two (2) of the original members of the Board shall be appointed to serve one (1) year terms and the remainder of the original members of the Board shall be appointed to serve three (3) year terms. Members of the Board may be reappointed.

(e) Members of the Board may be removed for cause by the legislative body of Wetumpka.

(f) Vacancies on the Board shall be filled by persons nominated by the chief executive officer of Wetumpka and appointed by the legislative body of Wetumpka. Such appointments shall be for the unexpired term of the member replaced.

(g) Members of the Board shall elect a chairman and vice-chairman and such other officers as the members deem necessary. The Board shall adopt rules of procedure and shall communicate those rules of procedure to the chief executive officer and legislative body of Wetumpka creating the Board. The rules of procedure of the Board shall specify what number of members of the Board shall constitute a quorum.

(h) Members of the Board shall serve without compensation, but may be reimbursed for reasonable expenses incurred on behalf of the Board, in accordance with the rules and regulations for the reimbursement of expenses adopted by the Board.

(i) The Board may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the Board.

(j) Meetings of the Board shall be public meetings and shall be held at times and places and pursuant to such notices as are specified in the ordinance creating the Board.

(k) If, in the opinion of the governing body of Wetumpka, the work load of the Board is, or is contemplated to be excessive, the governing body of Wetumpka may create more than one Board, and designate the historic properties, and historic districts with which each Board will be concerned, so long as each historic property and each historic district designated by Wetumpka shall be subject to the control of only one Board. Each Board created shall have all of the powers and authority set forth in this act with respect to the historic properties and historic districts with which it is concerned.



**Section 14.** Wetumpka may create a joint Commission and Board with other municipalities within Elmore County or with Elmore County pursuant to an ordinance enacted pursuant to this act, with all the powers granted by this act to such Commissions. Any such joint Commission and joint Board shall be subject to all of the applicable provisions of this act and the representation on such joint Commission and joint Board shall be determined by the governing bodies participating in such joint Commissions and joint Boards.

**Section 15.** No provision of this act shall be construed to require the dissolution of any historic development commission or architectural review board created by an ordinance enacted pursuant to prior laws. Any historic development commission or architectural review board created by an ordinance existing pursuant to prior laws and existing at the time of the enactment of this act shall continue in existence and shall have all of the purposes, powers and authority set out in the ordinances creating such Commissions and Boards. Any such Commission or Board shall also have the power set forth in this act, if so provided by ordinance enacted by the governing body creating the historic development commission or architectural review board.

**Section 16.** The provisions of this act shall not apply to a highway, road, street, bridge, or utility structure or facility, nor to any highway, road, street, bridge or utility structure or facility to be constructed or improved, including any property, building or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith, or within an historic district or an area designated as historic properties under this act, nor to actions taken in connection therewith by public authorities or utilities charged with responsibility of constructing, maintaining, repairing or improving any such highway, road, street, bridge or utility structure or facility, including any property, building or other structure or facility to be changed, moved, demolished, acquired or utilized in connection therewith; provided further, however, that where property lying within an area designated as historic properties or as an historic district, pursuant to the provisions of this act is sought to be utilized or acquired by any public authority for the purpose of construction or improvement of a highway, road, bridge, utility structure or facility or street, and the provisions and requirements of Section 106, et seq., of the National Historic Preservation Act of 1966 (16 USCA 470), are applicable to the property acquisition or utilization, the public authority or utility may utilize or acquire any such property, building or other structure or parts thereof, and change, move or demolish any building or other structure in accordance with the applicable provisions, requirements and procedure provided for under such act, including the requirements and procedure as applicable of the Advisory Council on Historic Preservation, Section 36, Code of

Federal Regulations 800 (16 USCA 470i), and in accordance with the provisions, requirements and procedure as applicable under Section 4(f) of the U. S. Department of Transportation Act of 1966, as amended, 49 USCA 1653 (f), and under 23 USCA 138.

In the event the foregoing National Historic Preservation Act or Section 4(f) are not applicable to the property, building or other structure, they shall be exempt from the provisions of this act.

**Section 17.** The provisions of this act are cumulative and shall be construed with any and all other laws or parts of laws relating to historical preservation and architectural review, except those laws in direct conflict herewith are repealed.

**Section 18.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 19.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:06 P.M.

Act No. 89-719

H. 1037—Rep. Lindsey

## AN ACT

Relating to Cherokee County; approving and authorizing the Cherokee County Commission to levy a certain increase in the ad valorem tax presently being levied in accordance with Amendment No. 373 to the Constitution of Alabama of 1901; providing that such increased countywide ad valorem tax shall be levied and collected by Cherokee County for each year beginning with the levy for the tax year October 1, 1989 to September 30, 1990 (the tax for which year will be due and payable October 1, 1990) and ending with the levy for the tax year October 1, 2008 to September 30, 2009 (the tax for which year will be due and payable October 1, 2009) for public school purposes; provided that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of Cherokee County at a special election called and held in accordance with the laws governing special elections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any taxes now authorized or that may hereafter be authorized by the constitution and laws of the state of Alabama, pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, the Cherokee County Commission is hereby authorized to increase the countywide ad valorem school tax presently

being levied by ten mills on each one hundred dollars worth of taxable property in Cherokee County. Such ten mill increase in ad valorem tax shall be levied and collected by the governing body of Cherokee County for each year beginning with the levy for the tax year October 1, 1989 to September 30, 1990 (the tax for which year will be due and payable October 1, 1990) and ending with the levy for the tax year October 1, 2008 to September 30, 2009 (the tax for which year will be due and payable October 1, 2009) for public school purposes with the proceeds from such increase to be expended at the direction of the county school board; provided, that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of Cherokee County, and voted for by a majority of those voting at a special election that shall be held on May 30, 1989 to be called and held in accordance with the law governing special elections.

**Section 2.** The ballot to be used in the aforesaid election shall be substantially as follows, with such insertions, variations and omissions as shall be necessary to conform to the requirement of applicable law:

“Shall the countywide ad valorem taxes presently being levied and collected in Cherokee County be increased by ten (10) mills; such additional ten mill tax to be levied and collected annually beginning with the levy for the tax year October 1, 1989 to September 30, 1990 (the tax for which year will be due and payable October 1, 1990) and ending with the levy for the tax year October 1, 2008 to September 30, 2009 (the tax for which year will be due and payable October 1, 2009) and the funds arising from the increased ad valorem tax to be used for public school purposes.

\_\_\_\_\_ For proposed taxation

\_\_\_\_\_ Against proposed taxation”

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:07 P.M.

Act No. 89-720

H. 1038—Rep. Lindsey

# AN ACT

To promote the maintenance of Cherokee County's natural beauty by eliminating unsightly and unhealthy litter; to provide that certain identifiable litter constitutes

prima facie evidence of littering by the person with whom it can be identified; to grant power and authority to the Cherokee County Health Department to enforce littering laws in Cherokee County; and to prescribe fines for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Cherokee County Health Department may, at its discretion, enforce littering laws, and other laws relating to litter in Cherokee County, in addition to health laws and regulations governing the control and disposal of solid waste in Cherokee County, and shall be empowered with the authority of peace officers as defined by state law for the purpose of enforcing such laws.

**Section 2.** Mail or other personal items bearing the name or address of the recipient or former owner thereof among refuse, garbage, waste paper, trash, litter or other debris unlawfully placed, thrown, left or dumped within Cherokee County shall constitute prima facie evidence that the person whose name or address appears on said mail or other personal item unlawfully placed, put, threw, left, dumped or deposited said refuse, garbage, waste paper, trash, litter or other debris; and any person, law enforcement officer, or member of the Cherokee County Health Department shall have the authority to seek prosecution against such person based on such prima facie evidence.

**Section 3.** It is unlawful to dump, deposit, place, throw or leave refuse, paper, litter, rubbish, debris, filthy or odoriferous objects, substances or other trash upon a state or county highway, road or other public thoroughfare in Cherokee County, and any person upon first conviction thereof shall be punished by fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or shall provide in-kind service to the county through public works. Citations for violations of the provisions of this act shall be issued in the same manner as are citations for violations of the Rules of the Road. Any fines provided for in this act shall be deposited in the general fund of the county.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The provisions of this act are supplemental. It shall be construed in pari materia with other laws relative to littering; however, any law which conflicts specifically herewith is hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:08 P.M.

Act No. 89-721

H. 1044—Rep. Blakeney

## AN ACT

Relating to Marengo County; providing for a certain expense allowance and a certain mileage allowance for the coroner and specifically repealing Act No. 79-522, H. 397, approved July 30, 1979 (Acts 1979, p. 934), Act No. 81-71, H. 86, approved February 26, 1981 (Acts 1981, p. 94), and Act No. 85-895, H. 82, approved September 19, 1985 (Acts 1985, Second Special Session, p. 154).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The coroner of Marengo County, Alabama, shall be entitled to receive an expense allowance in the amount of \$250.00 per month, to be paid in equal monthly installments from the county general fund. Said expense allowance shall be in lieu of any expense allowances heretofore provided by law for such coroner.

**Section 2.** The Marengo County Commission is hereby authorized and empowered to set the mileage allowance for the county coroner at twenty-two cents (\$.22) per mile. Such mileage allowance shall be paid from the county general fund and shall be in lieu of any mileage allowances heretofore provided by law for such coroner.

**Section 3.** The following acts which provided for mileage and expense allowances for the coroner of Marengo County are hereby specifically repealed: Act No. 79-522, H. 397, approved July 30, 1979; Act No. 81-71, H. 86, approved February 26, 1981; and Act No. 85-395, H. 82, approved September 19, 1985.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective on the first day of the first month next following its passage and approval by the Governor or its otherwise becoming a law.

Approved May 11, 1989

Time: 5:09 P.M.

Act No. 89-722

H. 1050—Reps. Knight and Hill

## AN ACT

Relating to Shelby County; approving an increase of the three mill countywide ad valorem school tax levied pursuant to Amendment No. 3 to the Constitution of

Alabama of 1901, by seven mills to ten mills, all in accordance with Amendment No. 373 to said Alabama Constitution; such additional seven mill tax to be levied and collected by the governing body of Shelby County for each year beginning with the levy for the tax year October 1, 1989, to September 30, 1990 (the tax for which year will be due and payable October 1, 1990) and ending with the levy for the tax year October 1, 2016, to September 30, 2017 (the tax for which year will be due and payable October 1, 2017) for public school purposes; provided that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of Shelby County at a special election called and held in accordance with the laws governing special elections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any taxes now authorized or that may hereafter be authorized by the Constitution and laws of the State of Alabama, pursuant to Amendment No. 373 to the Constitution of the State of Alabama, an increase of the countywide ad valorem school tax presently being levied pursuant to Amendment No. 3 to the Constitution of Alabama of 1901, from the rate of thirty cents on each one hundred dollars worth of taxable property in Shelby County to the rate of one dollar on each one hundred dollars worth of taxable property in said county (an increase of seventy cents on each one hundred dollars worth of taxable property, or seven mills) is approved; such additional seven mill tax to be levied and collected by the governing body of Shelby County for each year beginning with the levy for the tax year October 1, 1989, to September 30, 1990 (the tax for which year will be due and payable October 1, 1990) and ending with the levy for the tax year October 1, 2016 to September 30, 2017 (the tax for which year will be due and payable October 1, 2017) for public school purposes; provided, that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of said county, and voted for by a majority of those voting at a special election called and held in accordance with the law governing special elections.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:10 P.M.

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Act No. 89-723

H. 1053—Rep. Willis

## AN ACT

Relating to the City of Jacksonville in Calhoun County, to amend Act 2182, H. 2753 of the 1971 Regular Session (Acts of 1971, p. 3489) as last amended, pertaining

to the Jacksonville Civil Service System, so as to alter the compensation of board members; to provide for the board's annual budget; and to alter the number of persons on an eligible list from which the appointing authority may select.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 6, 7, 12 and 16 of Act 2182, H. 2753 of the 1971 Regular Session (Acts of 1971, p. 3489) as last amended, is hereby amended to read as follows:

"Section 6. The chairman of the board shall be paid one hundred twenty-five dollars (\$125.00) per month, the co-chairman shall be paid one hundred and ten dollars (\$110.00) per month and all other members of the board shall be paid one hundred dollars (\$100.00) per month. Board members shall be paid by the City of Jacksonville. The board shall have power to appoint clerical assistance and engage legal counsel of its own choice."

"Section 7. The board shall fix the times for its regular meetings, and it must hold at least one regular meeting each month; it may also hold special, adjourned, or called meetings at any time. Members of the board in attendance at special or called meetings shall receive twenty dollars (\$20.00) for attendance; however board members shall not be paid for more than two (2) special or called meetings in any calendar month. A majority of the members of the board shall constitute a quorum for the transaction of business. All meetings of the board shall be held in the city hall."

"Section 12. Whenever a vacancy exists in any position in the service of the city, it shall be filled by appointment of one of the five persons who rank highest on the appropriate eligible register of the board or by transfer within the service of the city from another position of the same class. However, the ranking layoff of the same class shall be appointed in every instance. Whenever it is impossible for the board to certify eligible persons to a vacancy, the board may authorize the appointing authority to fill the vacancy temporarily pending the establishment of an eligible register. No such authorization may be given for longer than one hundred and twenty days, and no such employee shall have status under this act. All appointments, other than temporary appointments, shall be probationary for six months from the date of appointment. A probationary subordinate employee may be discharged by his appointing authority for unsatisfactory service at any time before the expiration of that period if the action is approved by the board; a probationary department head employee may be discharged or demoted similarly by his appointing authority upon approval by the board. After the expiration of the probationary period, an appointment shall become permanent."

"Section 16. The board shall receive from the city governing body an annual budget of at least twenty-five thousand dollars per

year (\$25,000.00). Said funds shall be allocated pursuant to the same budgetary process as is applicable to other city departments. Said funds shall be accounted for in the same manner as other city funds are accounted. Said funds shall be used to pay compensation, expenses and for the operation of the board. The city governing body shall provide the board an office in the city hall, which shall be suitably equipped and furnished for the needs of the board, and telephone service, postage, office supplies, and stationery."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:11 P.M.

Act No. 89-724

H. 1057—Reps. Crow, Willis  
and Campbell

## AN ACT

Relating to Calhoun County, Alabama; to authorize Calhoun County in the furtherance of the public health, safety and general welfare of the citizens of the county to engage in arranging for fire hydrants on and along all water mains of appropriate diameter in unincorporated areas of Calhoun County; to authorize Calhoun County to negotiate and enter into agreements, with any entity or entities owning or maintaining water mains or systems, as may be necessary to allow fire hydrants to be provided pursuant to the provisions of this act; to provide for the county's responsibility in regard to fire hydrants provided pursuant to this act; to authorize Calhoun County to establish and maintain special funds for the purposes of providing such fire hydrants and for the inspection and maintenance of such fire hydrants; to allow the investment by the county of funds so as to generate adequate income for the continued inspection and maintenance of fire hydrants provided pursuant to this act; to authorize Calhoun County to set the amount required for the purchase and installation of a fire hydrant and the amount necessary to provide for the continued inspection and maintenance of a fire hydrant; to require a person or legal entity desiring a fire hydrant to pay the county the amounts set by the county commission for its purchase and installation and its inspection and maintenance; to provide that all entities now or in the future providing water or water services within the boundaries of Calhoun County shall be required to make all purchases, and to do all installations, maintenance and servicing of fire hydrants, provided under the provisions of this act, for their usual and customary charges for such purchases and services; to authorize Calhoun County to levy and collect an inspection and maintenance fee should such become necessary; to require municipalities which are formed or which annex land with fire hydrants into their corporate limits to assume full responsibility for the continued inspection and maintenance of fire hydrants within such annexed or newly incorporated areas, or to provide for the adequate assumption of such responsibility; and to provide that the furnishing of fire hydrants pursuant to this act is a governmental function and to exempt Calhoun County from all tort liability in connection with the providing of fire hydrants pursuant to this act.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply only to Calhoun County, Alabama.

**Section 2.** It has been shown to be in the public interest that an adequate supply of water be available in order to fight fires. Such a supply of water is not available in certain unincorporated areas of Calhoun County due to the lack of fire hydrants. This act is to authorize Calhoun County, in furtherance of the public health, safety and general welfare of the citizens of Calhoun County to engage in arranging for the purchase, installation, inspection and maintenance of fire hydrants where feasible and practical on and along all water mains of appropriate diameter in unincorporated areas of Calhoun County. The county's responsibility in regard to fire hydrants provided pursuant to this act shall be to provide stability, continuity and administration of a procedure that will maximize the utilization of existing and future water systems in the county in providing for fire protection at the expense of those receiving the service.

**Section 3.** Calhoun County is authorized to engage in arranging for the purchase, installation, inspection and maintenance of fire hydrants where feasible and practical on and along all water mains of appropriate diameter located in all unincorporated areas of Calhoun County. Calhoun County is further authorized to negotiate and enter into agreements, including but not limited to agreements for maintenance and indemnification, with any entity or entities owning or maintaining water mains or systems in unincorporated areas of Calhoun County, as may be necessary to allow fire hydrants to be provided pursuant to the provisions of this act.

**Section 4.** Calhoun County is authorized to establish and maintain special funds, separate from other funds of the county, for the purposes of financing the purchase and installation, and the inspection and maintenance of fire hydrants in unincorporated areas of the county. Calhoun County is further authorized to maintain a portion of said special funds in investments so as to generate adequate income for the continued inspection and maintenance of fire hydrants which are purchased and installed pursuant to this act.

**Section 5.** The Calhoun County Commission is authorized to set, and to set from time to time as necessary, the amount required for the purchase and installation of a fire hydrant and the amount necessary to be invested such as to provide adequate income to provide for the continued inspection and maintenance of a fire hydrant. A person, persons or legal entity desiring a fire hydrant shall pay to Calhoun County the amount set by the Calhoun County Commission for a fire hydrant to be purchased and installed and shall also pay to Calhoun County the amount set by the Calhoun

County Commission to provide for the continued inspection and maintenance of the fire hydrant.

**Section 6.** All entities, now or in the future, providing water or water services within the boundaries of Calhoun County shall be required to make all purchases, and to do all installations, maintenance and servicing of fire hydrants provided under the provisions of this act, for their usual and customary charges for such purchases and services.

**Section 7.** Should the income to Calhoun County from the amount invested to provide for the continued inspection and maintenance of a fire hydrant not be adequate to provide for such inspection and maintenance the Calhoun County Commission is authorized to set a reasonable inspection and maintenance fee which shall be collected from those who reside or own land in the area of the fire hydrant such as to receive benefit from it if there was a fire.

**Section 8.** Any municipality which is formed so as to include land with fire hydrants installed pursuant to this act or which annexes land into its corporate limits with fire hydrants installed pursuant to this act shall assume full responsibility for the continued inspection and maintenance of fire hydrants installed pursuant to the provisions of this act within such incorporated or annexed areas, or such municipalities shall adequately provide for the assumption of such responsibility.

**Section 9.** The furnishing of fire hydrants pursuant to this act is hereby declared to be a governmental function. Calhoun County shall not be liable for any tort, whether negligent or wilful, committed by any commissioner, agent, servant or employee of the county in the purchase, installation, inspection or maintenance of fire hydrants provided pursuant to the provisions of this act.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:12 P.M.

Act No. 89-725

H. 1059—Reps. Turner and Box

## AN ACT

Relating to Mobile County and the practice of barbering; amending Sections 8 and 14 of Act No. 678, H. 1364 of the 1961 Regular Session entitled "An Act Regulating the practice of barbering; prescribing the terms upon which licenses may be issued to practitioners of barbering, including students and apprentices; regulating barber shops, barber schools and instructors; providing for the appointment of a County Board of Barber Commissioners, and defining the duties of said Board; prescribing fees; defining certain misdemeanors and providing penalties for violation thereof in all counties having a population of not less than 300,000 nor more than 500,000 inhabitants according to the last or any subsequent federal decennial census," (1961 Acts, p. 940), relating to renewal of licenses and fees charged and collected by the Board of Barber Commissioners so as to provide further for requirements for license renewals and fees to be charged and collected by the said board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 8 and 14 of Act No. 678, H. 1364 of the 1961 Regular Session entitled "An Act Regulating the practice of barbering; prescribing the terms upon which licenses may be issued to practitioners of barbering, including students and apprentices; regulating barber shops, barber schools and instructors; providing for the appointment of a County Board of Barber Commissioners, and defining the duties of said Board; prescribing fees; defining certain misdemeanors and providing penalties for violation thereof in all counties having a population of not less than 300,000 nor more than 500,000 inhabitants according to the last or any subsequent federal decennial census," (1961 Acts, p. 940), are hereby amended to read as follows:

"Section 8. HOW TO MAKE APPLICATION FOR LICENSE:

"(a) Any person desiring to practice barbering, or desiring to practice as an apprentice barber, shall file with the Secretary of the Board a written application, under oath, on a form prescribed by the Board, together with two photographs of the applicant, 2 x 3 inches in size, and satisfactory proof that applicant is of good moral character and also furnish the Board with a certificate issued by the County Health Department from a practicing medical physician of such county showing that applicant is free from any contagious, infectious or communicable disease, including gonorrhea, syphilis and tuberculosis.

"(b) Neither a medical examination nor new photographs shall be required for the renewal of a barber shop operator's license or a teacher or instructor certificate or license."

“Section 14. FEES. The Board of Barber Commissioners shall charge and collect the following fees:

“(a) The original as well as any subsequent examination fee for barber or apprentice shall be \$25.00 per examination. Any such fee shall also include the cost of the issuance of any such barber or apprentice license which may thereafter be issued;

“(b) For the annual renewal of a barber or apprentice license, a fee of \$20.00 shall be charged;

“(c) For restoration of an expired barber or apprentice license, a fee of \$25.00 shall be charged. Upon the payment of such fee such license shall be restored without examination provided application is made therefor, within a period of two years from the date of the expiration of any such license. There shall be a \$5.00 delinquent fee charged for each month late to cover expenses of collecting late license fees.

“(d) For the application and issuance of a new barber shop operator's license, a fee of \$50.00 shall be charged;

“(e) For the annual renewal of a barber shop operating license, a fee of \$15.00 shall be charged. Also, barber shops shall be charged a delinquent fee of \$5.00 a month for each month late to cover the cost of collecting such late fee;

“(f) For the application and examination of Teacher or Instructor applicant and issuance of a Teacher or Instructor certificate or license, a fee of \$50.00 shall be charged;

“(g) For the annual renewal of a Teacher or Instructor certificate or license, a fee of \$35.00 shall be charged;

“(h) All licenses required under this act shall be renewed annually on or before January 1;

“(i) A duplicate license will be issued upon the filing of a statement covering the loss of such license, verified by the oath of the applicant, and accompanied by the payment of a fee of \$20.00 for the issuance of same. Each duplicate license shall have the word “Duplicate” stamped across the face thereof and will bear the same number as the originally issued license.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:13 P.M.

Act No. 89-726

H.J.R. 519—Rep. Carothers

## HOUSE JOINT RESOLUTION

STATING THE CONSENSUS OF THE LEGISLATURE REGARDING THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

WHEREAS, the Tenth Amendment, part of the original Bill of Rights, reads as follows, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and

WHEREAS, the limits on Congress' authority to regulate State activities prescribed by the Tenth Amendment have recently been the subject of debate by the Supreme Court in the cases of *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1965), and *South Carolina v. Baker*, 56 U.S.L.W. 4311 (U.S. April 20, 1988) (No. 94, Original); and

WHEREAS, these cases hold that the limits of the Tenth Amendment are structural, and not substantive, leaving States to find protection from Congressional regulation through the national political process, rather than through judicially defined spheres of residual State authority; and

WHEREAS, these U.S. Supreme Court decisions invite further Federal preemption of State authority; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That is is the consensus of this body that the Tenth Amendment to the Constitution of the United States is and always has been of operational force governing and balancing the respective powers of the States and the Federal Government. It is the further sense of this body to affirm that the Tenth Amendment is a substantive limit on national power and should so be applied as a test by the Courts of the United States and of the several states in the cases coming before them where a question of the exercise of the federal authority is raised.

BE IT FURTHER RESOLVED, That this resolution be forwarded to the President and to the U.S. Congress urging them in the carrying out of their responsibilities to protect and strengthen the position of the states in the federal union, avoid intrusion upon state prerogatives and afford protection to the proper governing authorities of the states.

Approved May 11, 1989

Time: 5:14 P.M.

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Act No. 89-727

H.J.R. 39—Rep. Frazier

## HOUSE JOINT RESOLUTION

DESIGNATING A PORTION OF U.S. HIGHWAY 78 AS THE  
“CLYDE A. (POLLY) CLARK PARKWAY.”

WHEREAS, Clyde A. (Polly) Clark of Carbon Hill has served as district commissioner, Walker County, Alabama, for more than 16 years; and

WHEREAS, Commissioner Clark has served four full terms as well as a portion of one term in said office, and currently is entering his fifth full term by virtue of reelection by district residents; and

WHEREAS, Clyde A. (Polly) Clark, in serving as district commissioner with honor and distinction for the past 17 years, has compiled an enviable record of performance that serves as an example to be emulated throughout the State of Alabama; and

WHEREAS, it is the consensus of the Alabama Legislature that it is both fitting and proper that Mr. Clark's distinguished public service career be recognized in an appropriate and lasting manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate that portion of U.S. Highway 78 within the corporate limits of Carbon Hill in Walker County, Alabama, as the “Clyde A. (Polly) Clark Parkway,” and do further authorize the proper officials to erect and maintain appropriate signs and markers so designating said portion of Highway 78.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Walker County Commission, with a copy also provided for Mr. Clark, that he and the county governing body may be advised of this honorary designation of the Alabama Legislature.

Approved May 11, 1989

Time: 5:15 P.M.

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Act No. 89-728

H.J.R. 80—Rep. Ford

## HOUSE JOINT RESOLUTION

COMMENDING JOHN R. SIMPSON FOR HIS ROLE IN  
THE PROPOSED DEVELOPMENT OF AN AQUACULTURE DE-  
VELOPMENT AND EDUCATIONAL CENTER AT GADSDEN

STATE COMMUNITY COLLEGE IN GADSDEN, ALABAMA, AND DESIGNATING SAID CENTER, UPON COMPLETION, AS THE "ALABAMA AQUACULTURE CENTER FOR THE STATE OF ALABAMA."

WHEREAS, aquaculture is the controlled raising of useful animals and plants in confined water environments, and, among the various forms of aquaculture, catfish farming is the largest and fastest growing in the United States; and

WHEREAS, the catfish industry which began in the 1960s, has grown from some 16 million pounds processed in 1975 to a current processing of more than 300 million pounds of catfish, some 12% of which are grown in Alabama; and

WHEREAS, due to climate, water resources, terrain and soil, the Southeastern states will continue to be the center for catfish production and Alabama has the potential to be a leading catfish producer; and

WHEREAS, Dr. John T. Simpson of Gadsden State Community College, perceiving this potential, has proposed and recommended that an aquaculture educational and development center to educate and train prospective and existing catfish farmers be established at Gadsden State Community College which is blessed with an abundant amount of land adjacent to the Coosa River with an existing three-acre pond; and

WHEREAS, the development of model catfish farms on this site would therefore provide a central location in North Alabama for the pursuit by catfish farmers of academic coursework, as well as workshop studies and conferences, with the ponds to be used as laboratories for the latest technology; and

WHEREAS, said center would further provide local Alabama extension agents with a central site in North Alabama for assisting both individual and groups of catfish farmers, and other uses for the facility might include laboratory use by commercial marine fisheries, as well as demonstration purposes for biology courses taught at GSCC, among others; and

WHEREAS, it is estimated that the initial cost to construct, equip and stock such model catfish ponds would be less than \$40,000, an insignificant sum proportionate to the center's benefit to the state, existing and potential catfish farmers, and our educational system; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Dr. John T. Simpson for his role in initiating a

proposal for the development of an aquaculture development and educational center at Gadsden State Community College.

BE IT FURTHER RESOLVED, That contingent upon completion of the proposed aquaculture center, said facility shall be designated as the Alabama Aquaculture Center for the State of Alabama.

Approved May 11, 1989

Time: 5:16 P.M.

Act No. 89-729

H.J.R. 90—Reps. Turner and Warren

### HOUSE JOINT RESOLUTION

EXPRESSING OPPOSITION TO THE USE OF FEDERAL MOTOR FUEL TAX INCREASES TO REDUCE THE BUDGET DEFICIT.

WHEREAS, the National Economic Commission is considering proposals for reducing the federal budget deficit; and

WHEREAS, some members of Congress have proposed to significantly increase the federal motor fuel tax as a deficit-reduction measure; and

WHEREAS, such an increase in the federal motor fuel tax is not in the national interest and will create unemployment, depress business activity, increase costs to all Americans by raising the cost of transportation, and will seriously limit the ability of the states to generate badly needed highway revenues; and

WHEREAS, an increase in the federal motor fuel tax would fall disproportionately on the nation's poor, people who use their vehicles in their work, and on citizens living in states where travel distances are greater and alternative transportation is unavailable; and

WHEREAS, higher federal motor fuel taxes would raise domestic transportation costs and make American goods more expensive to produce, and thereby adversely affect the ability of American companies to compete with foreign exporters and in overseas markets; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express opposition to any increase in the federal motor fuel tax for deficit reduction and urge the National Economic Commission to find other means of reducing the federal budget deficit which would



have a less harmful effect on citizens, business and state governments of the United States.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to President Bush, the National Economic Commission and to members of the Ways and Means Committee of the U.S. House of Representatives and the Senate Finance Committee.

Approved May 11, 1989

Time: 5:17 P.M.

Act No. 89-730

H.J.R. 105—Reps. Hooper, Cosby, Flowers, Curry, Gaston, Kvalheim, McKee, Buskey (JL), Mikell, Knight, Gray, Sanderford, Petelos, Beers, Logan, White (G) and Biddle

### HOUSE JOINT RESOLUTION

CONGRATULATING JACK KEMP ON HIS APPOINTMENT AS SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND URGING THE DESIGNATION OF CERTAIN ALABAMA CITIES AS "ENTERPRISE ZONES."

WHEREAS, in consensus of highest commendation, the Legislature of Alabama congratulates former congressman Jack Kemp of New York on his appointment as Secretary of the Department of Housing and Urban Development (HUD), and on the confirmation of his appointment by the United States Senate; and

WHEREAS, Mr. Kemp, who served with great distinction and as an immensely effective member of Congress, was always a clear, strong voice and faithful champion for a strong national defense, a balanced budget and fiscal responsibility in all areas of government; and

WHEREAS, he further has a long-standing record of support for many programs vital to America's prosperity, and we have always been grateful for his advocacy of such programs as federal urban and rural enterprise zones, homestead ownership, and industrial development among others; and

WHEREAS, thus, so eminently qualified for his new position as Secretary of HUD, Mr. Kemp brings to the job outstanding intelligence and knowledgeability, and the insight necessary to direct the agency to fullest potential, and to expand upon the department's

opportunity to best serve the needs and interest of the states and citizens thereof; and

WHEREAS, we do indeed wish Mr. Kemp every success and achievement; we also call his attention to those cities in Alabama that have applied to HUD for designation as enterprise zones, and urge that he initiate appropriate action to achieve said designation for these cities; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate and commend Secretary Jack Kemp of the United States Department of Housing and Urban Development.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Kemp and that copies also be sent to the members of Alabama's Congressional Delegation.

Approved May 11, 1989

Time: 5:18 P.M.

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Act No. 89-731

H.J.R. 121—Reps. Harper and Marietta

### HOUSE JOINT RESOLUTION

REQUESTING CONGRESS TO PASS LEGISLATION TO REQUIRE OUT-OF-STATE COMPANIES TO PAY STATE SALES TAX.

WHEREAS, there is pending in the United States Congress a bill by Congressman Jack Brooks of Texas that would require out-of-state mail order companies to pay state sales tax; and

WHEREAS, this piece of legislation has been endorsed by the National Conference of State Legislatures and the National Governors' Association; and

WHEREAS, Alabama loses in excess of \$44 million in state and local sales taxes each year because of sales by out-of-state companies; and

WHEREAS, this is greatly unfair to the local retail merchants of this state and to the people of Alabama; and

WHEREAS, this source of revenue would be very helpful in the current shortfall of state funds; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That they do respectfully request the United States Congress to enact legislation sponsored

by Congressman Jack Brooks of Texas or similar legislation that would require out-of-state mail order companies to pay state and local sales taxes.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent by the Clerk of the House to each member of the Alabama Congressional Delegation.

Approved May 11, 1989

Time: 5:19 P.M.

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Act No. 89-732

H.J.R. 173—Rep. Harvey

### HOUSE JOINT RESOLUTION

#### CREATING THE JOINT INTERIM COMMITTEE ON THE DISPOSAL OF SCRAP TIRES.

WHEREAS, the Alabama Legislature is concerned about the health and environmental problems related to the disposal of scrap tires which require further study in depth and these require positive recommendations to the Legislature; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in order to further suggest to the state legislators sound, workable, financially feasible and economically possible methods of disposing scrap tires by the most healthful and environmentally safe procedure, there is hereby organized a Joint Interim Committee on the Disposal of Scrap Tires, to be composed of eight (8) members of the Legislature: four (4) members from the House to be appointed by the Speaker of the House, and four (4) members from the Senate to be appointed by the Lieutenant Governor. In addition to the legislative members, the following nonvoting members, from the public, shall be: the president, the vice-president and the executive director of the Alabama Tire Dealers' Association, and a total of three tire dealers, with one dealer from each the central, southern and northern regions, all of whom shall be selected by the executive director of the Alabama Tire Dealers' Association, and one representative of a tire manufacturer's facility in Alabama, to be appointed by the chairman of the committee. These nonvoting members shall serve without pay and shall give such expertise and perform such tasks as may be assigned by the full committee. It shall be the duty and function of the committee to analyze the present status of disposal of scrap tires and to serve as an advisory committee to the designated center for the recycling and research of the tire industry of the state as designated in HJR

10, Regular Session 1988, and to make recommendations for legislative revision which it considers necessary or desirable to enable the state to more adequately meet and furnish the services and requirements of the citizens in a safe, healthful and environmentally sound manner.

In reviewing the status and the pertinent laws in Alabama, the committee shall consider and make studies of relative hazardous waste disposal laws and regulations at both the state and federal levels, together with associated problems.

RESOLVED FURTHER, That the committee shall elect a chairman and cochairman from among the voting members and shall elect officers from among the membership. The committee shall provide for its own rules of procedure to conduct its business and shall meet at the call of the chair.

Each legislative member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends the meeting of the committee, which shall be paid out of the funds appropriated to the use of the Legislature on warrants drawn on the state comptroller upon requisition signed by the committee's chairman. Provided, that members shall not receive additional legislative compensation or per diem when the Legislature is in session. The chairman of the committee shall certify the sums due to the clerk or other employees of the committee. The total amount of funds expended by the committee in carrying out the study shall not exceed the sum of Seven Thousand Five Hundred Dollars (\$7,500).

BE IT FURTHER RESOLVED, That the committee shall report its findings and recommendations by the fifth legislative day of the 1990 Regular Session at which time the committee shall stand discharged of any further duties and responsibilities and shall be dissolved.

Approved May 11, 1989

Time: 5:21 P.M.

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Act No. 89-733

H.J.R. 210—Rep. Blake

### HOUSE JOINT RESOLUTION

CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE TO STUDY THE CONTROL OF COYOTES IN THE STATE OF ALABAMA.

WHEREAS, the coyote, a wild canine native to the open range of the American west, has expanded its range into Alabama, and has

become well established and numerous in most counties of the state; and

WHEREAS, losses to the wildlife resources, agricultural crops and livestock herds have been noted in a significant number of areas, and the potential for volume losses is considered great by many hunters, farmers and ranchers; and

WHEREAS, very little appears to be known about the coyote in Alabama and the degree of its impact on these Alabama resources; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study the control of coyotes in the State of Alabama. The committee shall be composed of 3 members of each house, to be appointed by the presiding officer of each house along with representatives from the Alabama Farmers Federation, the Alabama Cattleman's Association, the Alabama Department of Agriculture and Industries, the U.S. Department of Agriculture's Animal Damage Control Section, and the Game and Fish Division of the Alabama Department of Conservation and Natural Resources. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the 5th legislative day of the 1990 Regular Session. Each legislative member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed \$6,500.00.

Approved May 11, 1989

Time: 5:22 P.M.

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Act No. 89-734

H.J.R. 319—Rep. Blake

#### HOUSE JOINT RESOLUTION

CONGRATULATING THE PELL CITY HIGH SCHOOL LADY PANTHERS ON THEIR OUTSTANDING 1989 BASKETBALL SEASON.

WHEREAS, it is with great pleasure that the Legislature of Alabama extends congratulations to the Pell City High School Lady Panthers on their outstanding 1989 basketball season and their phenomenal 29-2 overall season record, including a 27-game winning streak; and

WHEREAS, the Pell City Ladies include among their accomplishments the runner-up position in the St. James High School Thanksgiving Tournament, the Big Orange Classic and Area Championships, and winner of Substate Segment Three; and

WHEREAS, under Head Coach Larry Slater and Assistant Coach Joe Fuller, the fantastic Lady Panthers are Erica Collins, Danielle Fields, Tonya Tice and April Hughes along with their teammates Melissa Purvis, Misty Fuller, Wendy Ely, Lauren Sippola, Brooke Jolley, Niki Golden, Kelly Hazelwood and Larisa Posey; and

WHEREAS, serving as team managers were Becky Harris, Kelly Harris, Amanda Tice and Rick Hughes; serving as scorekeeper was Amy Golden, and Lydia Hughes was team statistician; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate the Pell City High School Lady Panthers on the many outstanding accomplishments of the 1989 season, and direct that copies of this resolution be forwarded to Coach Slater for appropriate presentation and display.

Approved May 11, 1989

Time: 5:23 P.M.

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Act No. 89-735

H.J.R. 321—Reps. Buskey (JE), Clark (W)  
and Kennedy

### HOUSE JOINT RESOLUTION

COMMENDING THE JOHN L. LeFLORE BASKETBALL TEAM ON THE 1989 STATE CLASS 6A BOYS BASKETBALL CHAMPIONSHIP.

WHEREAS, it is with great pride and pleasure that the Legislature of Alabama extends congratulations to the John L. LeFlore Rattlers on the 1989 State Class 6A Boys Basketball Championship; and

WHEREAS, the LeFlore Rattlers, who went into the State Playoffs top-ranked and hungry for their second state title in four

years, were matched with third-ranked J. O. Johnson of Huntsville in round one; and

WHEREAS, after polishing off Johnson, the LeFlore cagers beat fourth-ranked Central High of Tuscaloosa, who had disposed of the Rattlers in the '88 Playoffs; and

WHEREAS, Coach Johnny Shelwood, Assistant Coach I. D. Antone and their venomous snakes then faced in-town rival McGill-Toolen in their title tilt, and a hard-fought 50-47 victory gave LeFlore the State 6A Crown; and

WHEREAS, the 6A Champion Rattlers are Captain Antonio Lang (Mobile Player of the Year, State Tournament MVP and the only non-senior to be named to the Starting Five of the All-State Team); Angelo Hamilton and Vernon Oliver (All-State Team); along with their talented teammates Kendal Allen, Michael Chestang, Clifton Cooper, Oscar Daniels, Christopher Laurence, Terriell Mullen, Ashby Pauley, Kenneth Rush, Warren Russell, Ross Sylvester, Christopher Williams, and Arvin Trotter; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding accomplishment and as Alabama's 1989 State Class 6A Basketball Champions, we hereby most highly commend Mobile's LeFlore High School Rattlers, and do further direct that copies of this resolution be forwarded to Principal F. A. Marshall and Athletic Director W. N. Jessie for appropriate presentation and school display.

Approved May 11, 1989

Time: 5:24 P.M.

Act No. 89-736

H.J.R. 322—Reps. Buskey (JE), Clark (W)  
and Kennedy

#### HOUSE JOINT RESOLUTION

COMMENDING COACH JOHNNY SHELWOOD OF LeFLORE HIGH SCHOOL, MOBILE, ALABAMA.

WHEREAS, in highest commendation, the Legislature of Alabama congratulates Coach Johnny Shelwood of Mobile's LeFlore High School on his selection by the Birmingham News as State Basketball Coach of the Year for 1989; and

WHEREAS, for Coach Shelwood, this was his second time to be named Coach of the Year and he also was selected, for the ninth

time in his career, Mobile Coach of the Year by the Mobile Basketball Coaches Association; and

WHEREAS, a veteran of 25 years at LeFlore (formerly Toulmanville High School), Coach Shelwood holds a career record of 375-217 during his accomplished tenure and, this year, directed his Rattlers to LeFlore's second State Championship in four years; and

WHEREAS, Coach Johnny Shelwood, a graduate of Dillard University with the Bachelor's degree and of Indiana University where he earned his Master's degree, is indeed to be praised for outstanding accomplishment and to be most heartily congratulated on his Coach of the Year honors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of notable professional achievement, we hereby most highly commend Coach Johnny Shelwood of LeFlore High School, Mobile, Alabama, for whom a copy of this resolution of honor and esteem shall be provided.

Approved May 11, 1989

Time: 5:25 P.M.

Act No. 89-737

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H.J.R. 401—Reps. Layson, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Lindsey, Logan, Marietta, Marks, Mathis,



McClain, McDowell, McKee,  
 McMillan, Melton, Mikell,  
 Moon, Newman, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos, Poole,  
 Rains, Richardson, Rogers,  
 Sanderford, Seibels, Slaughter,  
 Spratt, Starkey, Thomas,  
 Turner, Turnham, Venable,  
 Walker, Warren, White (F),  
 White (G), White (L),  
 Williams, Willis, Wright  
 and Zoghby

### HOUSE JOINT RESOLUTION

NAMING A PORTION OF STATE HIGHWAY 86 IN HONOR  
 AND IN HUMBLE TRIBUTE TO CHARLES W. DAVIS.

WHEREAS, a distinguished American patriot and a native of Gordo in Pickens County, Alabama, Charles W. Davis is the first World War II recipient, from the State of Alabama, of the Medal of Honor; and

WHEREAS, Charles W. Davis, was cited "For distinguishing himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty in action with the enemy on Guadalcanal Island.", both on January 12 and January 13, 1943; and

WHEREAS, the Medal of Honor, the United States' first decoration, was approved by Congress in 1861 during the Civil War; it remained the sole U.S. decoration until World War I and, in 1918, was restricted to those only who displayed the most extraordinary acts of heroism; and

WHEREAS, this decoration, also often called the Congressional Medal of Honor, is our nation's highest military award, and it is therefore that we recognize and acknowledge the consummate courage of Charles W. Davis; and

WHEREAS, it is the desire of this body that, Charles W. Davis, his valor and great deeds be honored in perpetuity, and that said tribute be executed in an appropriate and lasting manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That that portion of Alabama Highway 86 in Pickens County, from its point of intersection with U.S. Highway 82 at Gordo, Alabama, to the corporate limits of Carrollton, Alabama, is hereby named and designated, and shall henceforth and forever be known as the "Charles W. Davis Highway."

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers so designating said highway portion as the "Charles W. Davis Highway."

RESOLVED FURTHER, That a copy of this resolution be prepared for presentation to Charles W. Davis, a beloved native son of Pickens County, Alabama, in whom we are justly proud.

Approved May 11, 1989

Time: 5:26 P.M.

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Act No. 89-738

H.J.R. 525—Rep. Knight

### HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. BUFORD C. KNIGHT, PARENTS OF OUR ESTEEMED COLLEAGUE, REPRESENTATIVE AL KNIGHT, ON THE OCCASION OF THEIR 57TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Fifty-seventh Wedding Anniversary, on May 1, 1989, of Mr. and Mrs. Buford C. Knight, of Tylertown, Mississippi, the parents of our distinguished colleague, Representative Al Knight; and

WHEREAS, in the sight of God, Buford C. Knight and Kathryn James were joined in Holy Wedlock on May 1, 1932, in Jackson, Mississippi, and these two fine people forsaking all others, have remained in said Holy State for the past 57 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their wedding vows, setting an example to be emulated by all others who, in marriage, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Knight are beloved members of their community and are loyal citizens of the State of Mississippi; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with their family and friends in congratulating this exemplary couple of Tylertown, Mississippi, Buford and Kathryn Knight, and wish for them many more happy years together in their union so richly blessed by God.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. and Mrs. Knight so that they may know of our congratulations, high esteem and warm best wishes for the future.

Approved May 11, 1989

Time: 5:27 P.M.

Act No. 89-739

H. 428—Rep. Rogers

### AN ACT

Relating to Jefferson County; to amend further Section 3 of Act No. 248, H. 580, 1945 Regular Session (Acts 1945, p. 376), as amended most recently by Act No. 225, S. 271, 1987 Regular Session (Acts 1987, p. 316), pertaining to Personnel Boards of certain counties classified on a population basis, so as to provide further for an expense allowance for board members and the chairman for attendance of meetings of the boards and for attendance upon trials or hearings.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act No. 248, H. 580, 1945 Regular Session (Acts 1945, p. 376), as amended most recently by Act No. 225, S. 271, 1987 Regular Session (Acts 1987, p. 316), is hereby amended further to read as follows:

“Section 3. Membership of personnel board. Said personnel board shall consist of three members designated respectively as member number one, member number two and member number three, each of whom shall be over twenty-one years of age, of recognized character and ability, a bona fide resident and qualified voter of such county and shall not, when appointed, nor for the three years then last past before the date of his appointment, have held public office or political party office, nor have been a candidate for such and who shall not directly or indirectly have solicited membership on such board, provided that in any county which is or may hereafter be divided by law into two divisions for the trial of cases in the circuit court of such county, not more than two members of the board shall be residents of the same division. The board shall meet once a month on dates to be fixed by its rules and regulations and as often as shall be necessary for the orderly dispatch of its business. Members number one, two and three shall be appointed by the citizens supervisory commission of such county, which commission shall likewise appoint their successors. In all counties becoming subject to the provisions of this act, said board shall be appointed as soon as it is determined that such county is in the population class subject to this act. Member number one who shall be the chairman of the board shall hold office for a term of two years and until his successor is appointed and has

qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. Member number two shall hold office for a term of four years and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. Member number three shall hold office for a term of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. In the event of a vacancy on the board occasioned by death, resignation, impeachment or other cause, such vacancy shall be filled by the citizens supervisory commission for the then unexpired term. The chairman of the board shall receive an expense allowance of One Hundred Dollars (\$100.00) for each meeting of the board attended by him and an expense allowance of One Hundred twenty-Five Dollars (\$125.00) per day for attendance upon trials and hearings. Each member of the board other than the chairman shall receive an expense allowance of Seventy-Five Dollars (\$75.00) for each meeting of the board attended by him and an expense allowance of One Hundred Dollars (\$100.00) per day for attendance upon trials or hearings. No accounting shall be required for such expense allowance. This expense allowance shall not be deemed to be compensation. This expense allowance shall qualify as per diem amount under Act No. 87-706 of the Alabama Legislature, Section 10-11-1 et seq., Code of Alabama 1975. This expense allowance shall not reduce or limit the ability of the chairman and members of the board to receive reimbursements for further actual expense as approved by the board. This expense allowance shall be paid as the salaries of county employees are paid on the warrant of the member claiming such expense allowance, and said expense allowance shall be the sole remuneration received by the chairman and members of the board."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:28 P.M.

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Act No. 89-740

H. 40—Rep. Moon

### AN ACT

To amend Section 40-7-2.1, Code of Alabama 1975, as amended, relating to homestead exemptions based on age, income or disability, so as to allow such exemptions to continue without the required personal appearance to continue such exemption.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-7-2.1, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§40-7-2.1.

“(a) This amendatory act shall be known as the 1983 Taxpayer Convenience Act.

“(b) Notwithstanding any other law to the contrary, the county tax assessor may assess property for tax purposes and perform related tax assessing functions and requirements, including the acceptance of applications for homestead exemptions, from January 1 to September 30 of each taxable year and the assessment, including the homestead exemption, shall become effective on the following October 1. Provided, however, nothing herein contained shall be construed to relieve a person claiming a homestead exemption under sections 40-9-19 through 40-9-21, inclusive, or any other law of the responsibility of furnishing proof of age, or disability and total gross income for the year preceding the year for which the exemption will be effective as required by law. Provided, however, any person who has qualified for the said homestead exemption because of age or disability and income shall not be required to reapply for such personal exemption based on age, disability and income until the eligibility ceases. Such person shall only be required to verify by signature, on a form provided by the county tax assessor, that such qualifying conditions continue to exist and return the form by mail.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:28 P.M.

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Act No. 89-741

H. 68—Reps. Penry, Hamilton  
and Lindsey

### AN ACT

Notwithstanding any other penalty, to allow the Commissioner of Agriculture and Industries to impose civil penalties or fines after a hearing thereon for violations of Chapters 27 and 28 of Title 2, Code of Alabama (1975), and any regulations promulgated thereunder; to restrict the penalty to an amount not to exceed \$10,000 to any one person, firm, association or corporation, for an incident, or incidents arising out of the same transaction with maximum guidelines for said fines and penalties to be adopted by the State Board of Agriculture and Industries; to provide for appeals or

review of the Commissioner's action to be heard by the State Board of Agriculture and Industries and that judicial review of the action of the State Board of Agriculture and Industries shall be as provided by the Alabama Administrative Procedures Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) Notwithstanding the existence of any other penalty imposed for violations of the provisions of the Alabama Pesticide Act of 1971 as found in Chapter 27 of Title 2, Code of Alabama (1975), and the regulations promulgated thereunder, and the provisions of Chapter 28 of Title 2, Code of Alabama (1975), and the regulations promulgated thereunder, the Commissioner of Agriculture and Industries may, after a hearing thereon, impose a civil penalty or fine for violation of said Chapter 27 and 28, or any regulations promulgated thereunder.

(b) The maximum amount of the above civil penalty or fine shall not exceed \$10,000 for any one offense, and all incidents or violations committed by a person, firm, association or corporation, arising from the same transaction, shall constitute but one offense.

The State Board of Agriculture and Industries shall, by duly adopted regulations, provide maximum amounts to be imposed by the Commissioner for the various violations.

(c) The fine or penalty assessed by the Commissioner may be appealed to the Board of Agriculture and Industries by the aggrieved person giving the Commissioner written notice of intention to appeal within 15 days from the time the fine or penalty was assessed. Said review or appeal before the Board of Agriculture and Industries shall be conducted under the provisions of the Alabama Administrative Procedures Act. The Board of Agriculture and Industries may affirm the action of the Commissioner or it may modify the amount of the penalty, but the Board shall not increase the amount of penalty imposed by the Commissioner. The Board may also remand the matter back to the Commissioner for the taking of further testimony or the Board may dismiss the action of the Commissioner in its entirety. Judicial review by either party of any final action of the State Board of Agriculture and Industries shall be under the provisions of §41-22-20, Code of Alabama (1975), of the Alabama Administrative Procedures Act on the certified transcript of the record.

(d) The failure of any person, firm, association, or corporation to pay the assessed fine or penalty shall constitute grounds for the revocation of any permit or license issued under the provisions of Chapters 27 and 28, Title 2. Said fine or penalty may also be collected in a civil action in court under the name of the State of Alabama on the relation of the Attorney General and with his permission.

(e) All monies received from the assessment of any fine or penalty shall accrue to the agricultural fund.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:29 P.M.

Act No. 89-742

H. 73—Rep. Black

### AN ACT

To amend Section 36-30-1 of the Code of Alabama 1975, relating to compensation for the death of peace officers and firemen so as to provide that the definition of peace officers shall include university police officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-30-1 of the Code of Alabama 1975 is hereby amended to read as follows:

“§36-30-1.

“(a) For the purposes of this chapter, the following words and phrases shall have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

“(1) **AWARDING AUTHORITY.** The state board of adjustment, created and existing pursuant to article 4, chapter 9 of Title 41 of this Code.

“(2) **DEPENDENT CHILD.** An unmarried child under the age of 18 years, or one over that age who is physically or mentally incapacitated from earning.

“(3) **FIREMAN or FIREMEN.** A member or members of a paid, part-paid or volunteer fire department of a city, town, county or other subdivision of the state or of a public corporation organized for the purpose of providing water, water systems, fire protection services or fire protection facilities in the state; and such words shall include the chief, assistant chief, wardens, engineers, captains, firemen and all other officers and employees of such departments who actually

engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action.

“(4) **PEACE OFFICER.** All sheriffs, deputy sheriffs, constables, municipal police officers, municipal policemen, state and town marshals, members of the highway patrol, state troopers, employees of the board of corrections, highway camp guards, law enforcement officers of the department of conservation and natural resources, all law enforcement officers of the Alabama forestry commission, live-stock theft investigators of the department of agriculture and industries, capitol security guards, narcotic agents and inspectors of the state board of health and any other state, county or municipal officer engaged in quelling a riot, rout or civil disturbance and university police officers.

“(b) For the purposes of this chapter the following described persons shall be conclusively presumed to be wholly dependent:

“(1) Wife, unless it be shown that she was voluntarily living apart from her husband at the time of his death, or unless it be shown that the husband was not in any way contributing to her support and had not in any way contributed to her support for more than 12 months next preceding the occurrence of the injury causing his death.

“(2) Minor children under the age of 18 years and those over 18 if physically and mentally incapacitated from earning.

“(3) Wife, child, husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law and father-in-law who were wholly supported by the deceased peace officer or fireman at the time of his death and for a reasonable period of time prior thereto shall be considered his dependents and payment of compensation may be made to them as hereinafter authorized.

“(c) Any member of the class named in subdivision (3) of subsection (b) of this section who regularly derived part of his support from the earnings of the deceased peace officer or the deceased fireman, as the case may be, at the time of his death and for a reasonable time immediately prior thereto shall be considered his partial dependent and payment of compensation may be made to such partial dependent as hereinafter authorized.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:30 P.M.



Act No. 89-743

H. 74—Reps. Lindsey, Richardson,  
Warren, Blakeney,  
Hamilton, Penry and  
Bryant

### AN ACT

To amend §2-27-9, which provides for registration of pesticides and for appealing the action of the Commissioner in refusing to register a pesticide by increasing registration fees from \$15.00 per year to \$50.00 per year and to provide a delinquent penalty of \$50.00; to provide for registration of special local needs pesticides.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** §2-27-9, Code of Alabama (1975), is hereby amended to read as follows:

#### §2-27-9. Registration.

(a) Every pesticide or device which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the Commissioner upon application forms prescribed and furnished by him, and such registration or registrations shall be renewed annually, due January 1 of each year. The applicant shall pay an annual registration fee of \$50.00 for each and every brand registered, which fee shall accompany the application for registration to be deposited to the credit of the agricultural fund of the state treasury. If the registration fee as required under this section is not paid by March 1, or within 60 days following its due date, a delinquent penalty of \$50.00 shall be added to the amount thereof.

Pesticides may also be registered for special local needs as provided under duly adopted regulations of the State Board of Agriculture and Industries and pursuant to the requirements of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. Special local need registration means registration of a pesticide for use under conditions of special local need as defined by the Federal Insecticide, Fungicide and Rodenticide Act, as amended. The fee and other requirements for special local need pesticide registration shall be the same as other pesticide registration requirements.

The application for registration shall contain a statement giving:

- (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;
- (2) The name of the pesticide with an ingredient statement;

(3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use; and

(4) If requested by the commissioner, a full description of the tests made, and the results thereof, upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(b) The commissioner, whenever he deems it necessary in the administration of this article, may require the submission of the complete formula and method of analysis of any pesticide. If it appears to the commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of §2-27-14, he shall register the article.

(c) If it is determined as provided under subsection (d) of §2-27-6 that a pesticide, based upon its formulation and directions for use, warnings and cautions contained in its registered labeling, may not, without additional restrictions, be applied for its intended use without substantial adverse effects on the environment, including injury to the applicator, such pesticide shall be designated as a restricted-use pesticide.

(d) If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this article, he shall notify the applicant of the manner in which the article, labeling or other material required to be submitted fail to comply with the article so as to afford the applicant an opportunity to make the necessary corrections.

If, upon receipt of such notice, the applicant does not make the corrections, the Commissioner may refuse to register the article. The Commissioner, in accordance with the procedures specified in this Section, may suspend or cancel a registration as authorized under subsections (c), (d) and (e) of this section, notice of such action shall be given to the applicant or registrant who shall have 20 days from the date of such notice to request a hearing on the proposed action of the Commissioner. The hearing shall be conducted by the Commissioner, or his designee, for the purpose of receiving evidence relevant and material to the issues, following the conclusion of which the Commissioner shall issue an order with findings of fact and notify the applicant or registrant thereof. The Commissioner's order shall be based only on substantial evidence of record taken at the hearing.

Any person who will be adversely affected by such order of the Commissioner may obtain judicial review thereof by filing in the

Circuit Court of Montgomery County, within 30 days after the entry of such order, a complaint requesting that the order be set aside in whole or in part. A copy of the petition shall be forthwith served upon the Commissioner, and within 20 days from the date of service of such complaint, the Commissioner shall file an answer accompanied by the record of the proceedings on which he based his order. The court shall have jurisdiction to affirm or set aside the order complained of, in whole or in part, following a hearing upon the complaint and answer. The findings of the Commissioner with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. The court may sustain the order of the Commissioner or set aside or reverse the action of the Commissioner, or it may remand the matter to the Commissioner to take further testimony if there are reasonable grounds for the failure to adduce such evidence in the prior hearing. The Commissioner may modify his findings and his order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the register or clerk of the court.

(e) Upon the advice of the pesticide advisory committee and with the approval of the State Board of Agriculture and Industries, the Commissioner shall refuse the registration or cancel the registration of any pesticide or device previously registered where it is determined that the use of the pesticide according to directions on the label poses a substantial adverse effect on humans, animals or the general environment. Any person upon being notified of the refusal of registration of a pesticide or the cancellation thereof shall be entitled to the review, hearing and appeal rights as provided under subsection (d) of this section.

(f) Experimental labels may be required to be affixed to containers of pesticides where the pesticide is for experimental use.

(g) Notwithstanding any other provisions of this article, registration is not required in the case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

(h) The registration fee as required under this Section, together with the dealer license fee required under §2-27-10 shall be paid by cooperative marketing and purchasing associations and any exemption allowed such organizations pursuant to §2-10-105 or any other exemption statute shall not relieve such associations from the payment of such fees. Any amount improperly or illegally collected under the provisions of this article as overpayments, through mistake or otherwise, may be refunded to the person entitled thereto in accordance with §2-1-6.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective January 1 following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:31 P.M.

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Act No. 89-744

H. 121—Rep. Starkey

### AN ACT

To amend the following sections of Chapter 89A of Title 11 of the Code of Alabama 1975, relating to solid waste disposal authorities, for the following purposes: Section 11-89A-1, relating to legislative findings, so as to take account of the possibility of joint incorporation of such authorities by two or more counties or municipalities; Section 11-89A-2 relating to definitions, so as to provide that the term "revenues" shall include the proceeds of any special tax to which an authority may be entitled and to add the definition of "special tax"; Sections 11-89A-3, 11-89A-4 and 11-89A-5, relating to filing of application for incorporation of an authority, authorization of incorporation of an authority by a governing body of a county or a municipality or any two or more thereof, contents, execution and filing of a certificate of incorporation, and procedure for amendments to certificates of incorporation; Section 11-89A-6, relating to the board of directors of an authority, so as to provide for election, terms of office, vacancies, qualifications, expenses and impeachment; Section 11-89A-8, relating to powers of an authority and location of facilities of an authority, so as to provide that the power of an authority to pledge for the payment of any bonds issued or assumed by the authority its revenues shall include the pledge of proceeds of any special tax to which such authority may be entitled and to provide that any facility or facilities of an authority may be located at such places, within or without the boundaries of its determining subdivisions, as it considers necessary or advisable, subject to the requirement that the governing body of any county or municipality other than a determining subdivision with respect to an authority must give its prior consent to the location in such county or municipality of any facility or facilities owned or operated by such authority in such county or municipality, and to provide that an authority shall not have the power to levy any taxes; Section 11-89A-9, relating to bonds of an authority, so as to make necessary changes in detail relating to the possibility of joint incorporation of an authority by two or more counties or municipalities; Section 11-89A-15, relating to cooperation, aid and agreements from and with other bodies, so as to provide that any county, municipality or other political subdivision, public corporation, agency or instrumentality of the state may transfer to an authority the proceeds of any special tax which may be levied for the benefit of such authority or any facility owned or operated by such authority or the proceeds of which may have been appropriated, allocated or apportioned to such authority, or to or for the benefit of any such facility, by the Legislature or by the governing body

of a county or municipality; Section 11-89A-19, relating to disposition of net earnings of an authority, so as to provide that net earnings of an authority may, in the discretion of its board of directors, be paid to one or more of its determining subdivisions; Section 11-89A-21, relating to dissolution of an authority and vesting of title to an authority's property upon such dissolution, so as to provide that upon dissolution of an authority, the title to all its property shall vest in one or more counties or municipalities in such manner and interests as may be provided in the authority's certificate of incorporation and that if such certificate of incorporation contains no provision respecting the vesting of title to the properties of the authority, title to all such property shall thereupon vest in its determining subdivisions as tenants in common; and to provide that the provisions of this act shall be severable.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-89A-1 of the Code of Alabama 1975 is hereby amended to read as follows:

"It is hereby found and declared as follows: that the collection, disposal and utilization of solid waste is a matter of grave concern to all citizens and is an activity thoroughly affected with the public interest; that the health, safety and welfare of the people of this state require efficient solid waste collection and disposal service and efficient utilization of such waste; that the need exists to develop alternative energy sources for public and private consumption in order to reduce our dependence on such sources as petroleum products, natural gas, nuclear and hydroelectric generation; that solid waste represents a potential source of solid fuel, oil or gas that can be converted into energy; that technology exists to produce usable energy from solid waste; that there is a need for planning, research, development and innovation in the design, management and operation of facilities for solid waste management, in order to encourage continuing improvement and provide adequate incentives and processes for reducing operation and other costs in the management of solid waste; that a need exists for the demonstration of systems and techniques for materials recovery and reuse of solid waste; that long-term negotiated contracts with users of energy should be utilized as an incentive for the development of facilities for the recovery of energy from solid waste; that there is a shortage of funds available for the provision of solid waste disposal and resource recovery facilities; in order to provide for the collection and disposal of solid waste and to encourage planning of solid waste collection and disposal services and resource recovery through the development of systems for the recovery of material or energy from solid waste, it is necessary and desirable to authorize the creation by counties and municipalities (or any two or more thereof) in the state of authorities which will have the power to issue and sell bonds and notes and using the proceeds of such bonds and notes to acquire and construct such facilities."

**Section 2.** Section 11-89A-2 of the Code of Alabama 1975 is hereby amended to read as follows:

"The following words and phrases used in this chapter, and others evidently intended as the equivalent thereof, shall, in the

absence of a clear implication herein otherwise, be given the following respective interpretations herein:

(1) **APPLICANT.** A natural person who files a written application with the governing body of any county or municipality in accordance with the provisions of section 11-89A-3.

(2) **AUTHORITY.** Any public corporation organized pursuant to the provisions of this chapter.

(3) **AUTHORIZING RESOLUTION.** A resolution or ordinance adopted by the governing body of any county or municipality in accordance with the provisions of section 11-89A-3, that authorizes the incorporation of an authority.

(4) **BOARD.** The board of directors of an authority.

(5) **BONDS.** Bonds, notes or other obligations representing an obligation to pay money.

(6) **COSTS.** As applied to a facility or any portion thereof, such term shall include all or any part of the cost of construction, acquisition, alteration, enlargement, extension, reconstruction, improvement and remodeling of a facility, including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, permits, approvals, licenses and certificates and interests acquired or used for, in connection with or with respect to a facility, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, underwriters' commissions or discounts, interest prior to, during and for a period of six months following estimated completion of such construction and acquisition, provisions for reserves for both principal and interest and for maintenance, extensions, enlargements, additions and improvements to any facilities then being or theretofore acquired and all other documents authorized by any authority to be paid into any special funds from proceeds of bonds issued by the authority, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing a facility and such other expenses as may be necessary or incident to the construction and acquisition of a facility, the financing of such construction and acquisition and the placing of a facility in operation.

(7) **COUNTY.** Any county in the state.

(8) **DETERMINING COUNTY.** With respect to an authority, any county the governing body of which shall have made findings

and determinations of fact pertaining to the organization of such authority in accordance with the provisions of section 11-89A-3.

(9) **DETERMINING MUNICIPALITY.** With respect to an authority, any municipality the governing body of which shall have made findings and determinations of fact pertaining to the organization of such authority in accordance with the provisions of section 11-89A-3.

(10) **DETERMINING SUBDIVISION.** With respect to an authority, any determining county or determining municipality.

(11) **FACILITY.** All or any part of either or both of (i) a solid waste disposal facility, and (ii) a resource recovery facility, including all land, rights-of-way, property rights, franchise rights, machinery, equipment, vehicles, furniture, fixtures and all other property, rights, easements and interests necessary or desirable in connection therewith.

(12) **GOVERNING BODY.** With respect to a municipality, its city or town council, board of commissioners, or other like governing body exercising the legislative functions of a municipality and, with respect to a county, its county commission or other like governing body exercising the legislative functions of a county.

(13) **INCORPORATORS.** The persons forming a public corporation pursuant to the provisions of this chapter.

(14) **MUNICIPALITY.** An incorporated municipality in the state.

(15) **PERSON.** The state, a municipality, a county or any political subdivision or agency of the state or county or a municipality, a public corporation, or any private corporation, individual, partnership, trust or foundation.

(16) **RESOURCE RECOVERY FACILITY.** Such term shall include any land, building, plant, system, facility, equipment or other property, or any combination of either thereof, used or useful or capable of future use in connection with the extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(17) **RECOVERED RESOURCE.** Material or energy in any form whatsoever, including but not limited to steam, gas or electricity, which are or may be collected or recovered from or with respect to solid waste.

(18) **REVENUES.** All rentals, receipts, income and other charges derived or received or to be derived or received by the authority from any of the following: the operation by the authority of a facility or facilities, or part of either thereof; the sale, including installment sales or conditional sales, lease, sublease or use or other disposition

of any facility or portion thereof; the sale, lease or other disposition of recovered resources; contracts, agreements or franchises with respect to a facility (or portion thereof), with respect to recovered resources, or with respect to a facility (or portion thereof) and recovered resources, including but not limited to charges with respect to the disposal of solid waste received with respect to a facility, income received as a result of the sale or other disposition of recovered resources; any gift or grant received with respect thereto; proceeds of bonds to the extent of use thereof for payment of principal of, premium, if any, or interest on the bonds is authorized by the authority; proceeds from any insurance, condemnation or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of a facility; income and profit from the investment of the proceeds of bonds or of any revenues and the proceeds of any special tax to which it may be entitled.

(19) **SOLID WASTE.** Any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities.

(20) **SOLID WASTE DISPOSAL FACILITY.** Such term shall include any land, building, plant, system, facility, trucks and other motor vehicles, equipment or other property, whether real, personal or mixed, or any combination of either thereof, used or useful or capable of future use in connection with the collection, storage, treatment, utilization, recycling, processing, transporting or disposal of solid waste, including transfer stations, incinerators, sanitary land-fill facilities or other facilities necessary or desirable in connection therewith.

(21) **SPECIAL TAX.** Any tax which may be levied for the benefit of an authority or any facility owned or operated by it or the proceeds of which may have been appropriated, allocated or apportioned to such authority, or to or for the benefit of any such facility, by the legislature or by the governing body of a county or municipality.

(22) **STATE.** The state of Alabama."

**Section 3.** Section 11-89A-3 of the Code of Alabama 1975 is hereby amended to read as follows:

"A public corporation may be organized pursuant to the provisions of this chapter in any county or municipality. In order to incorporate such a public corporation, any number of natural persons, not less than three, who are duly qualified electors of a proposed determining subdivision shall first file a written application with the



governing body of any county or municipality, or any two or more thereof, which application shall:

- (1) Recite the name of each county and municipality with the governing body of which such application is filed;
- (2) Contain a statement that the applicants propose to incorporate an authority pursuant to the provisions of this chapter;
- (3) State the proposed location of the principal office of the authority;
- (4) State that each of the applicants is a duly qualified elector of the determining subdivision (or, if there is more than one, at least one thereof); and
- (5) Request that the governing body of such determining subdivision adopt a resolution declaring that it is wise, expedient, and necessary that the proposed authority be formed, approving its certificate of incorporation and authorizing the applicants to proceed to form the proposed authority by the filing for record of a certificate of incorporation in accordance with the provisions of section 11-89A-4. Every such application shall be accompanied by the form of certificate of incorporation of the proposed authority and by such other supporting documents or evidence as the applicants may consider appropriate.

As promptly as may be practicable after the filing of the application with it in accordance with the provisions of this section, the governing body of the determining subdivision with which the application was filed shall review the contents of the application, and the accompanying form of certificate of incorporation and shall adopt a resolution either denying the application or declaring that it is wise, expedient and necessary and that the proposed authority be formed, approving the form of its certificate of incorporation and authorizing the applicants to proceed to form the proposed authority by the filing for record of such a certificate of incorporation in accordance with the provisions of section 11-89A-4. While it shall not be necessary that any such resolution be published in a newspaper or posted, each governing body with which the application is filed shall also cause a copy of the application to be spread upon or otherwise made a part of the minutes of the meeting of such governing body at which final action upon said application is taken."

**Section 4.** Section 11-89A-4 of the Code of Alabama 1975 is hereby amended to read as follows:

"(a) Within 40 days following the adoption of an authorizing resolution (or, if there is more than one, the last adopted thereof), the applicants shall proceed to incorporate an authority by filing for

record in the office of the judge of probate of the county in which the principal office of the authority is to be located a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner provided in this chapter and shall also be in the form theretofore approved by the governing body of each determining subdivision.

(b) The certificate of incorporation of the authority shall state:

(1) The names of the persons forming the authority, and that each of them is a duly qualified elector of the determining subdivision (or, if there is more than one, at least one thereof);

(2) The name of the authority (which may be a name indicating in a general way the area proposed to be served by the authority and shall include the words "Solid Waste Disposal Authority," or "The Solid Waste Disposal Authority of," the blank spaces to be filled in with the name of one or more of the determining subdivisions or other geographically descriptive word or words, such descriptive word or words not, however, to preclude the authority from locating facilities or otherwise exercising its powers in other geographical areas), unless the secretary of state shall determine that such name is identical to the name of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty, in which case the incorporators may insert additional identifying words so as to eliminate said duplication or similarity;

(3) The period for the duration of the authority (if the duration is to be perpetual, subject to the provisions of Section 11-89A-21, that fact shall be stated);

(4) The name of each determining subdivision together with the date on which the governing body thereof adopted an authorizing resolution;

(5) The location of the principal office of the authority, which shall be within the boundaries of the determining subdivision (or, if more than one, at least one thereof);

(6) That the authority is organized pursuant to the provisions of this chapter;

(7) If the exercise by the authority of any of its powers hereunder is to be in any way prohibited, limited or conditioned, a statement of the terms of such prohibition, limitation or condition;

(8) The number of members of the board of directors of the authority, which shall be an odd number not less than three, the duration of their respective terms of office (which shall not be in

excess of six years) and (subject to the provisions of section 11-89A-6) the manner of their election or appointment;

(9) Any provisions, not inconsistent with section 11-89A-21, relating to the vesting of title to its properties upon its dissolution; and

(10) Any other related matters relating to the authority that the incorporators may choose to insert and that are not inconsistent with this chapter or with the laws of the state.

(c) The certificate of incorporation shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgements to deeds. When the certificate of incorporation is filed for record, there shall be attached to it (1) a copy of the application as filed with the governing body of each determining subdivision in accordance with the provisions of section 11-89A-3, (2) a certified copy of the authorizing resolution adopted by the governing body of each determining subdivision, and (3) a certificate by the secretary of state that the name proposed for the authority is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty.

(d) Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the authority shall come into existence and shall constitute a public corporation under the name set forth in said certificate of incorporation. The judge of probate shall thereupon send a notice to the secretary of state that the certificate of incorporation of the authority has been filed for record."

**Section 5.** Section 11-89A-5 of the Code of Alabama 1975 is hereby amended to read as follows:

"The certificate of incorporation of any authority incorporated under the provisions of this chapter may at any time and from time to time be amended in the manner provided in this section. The board shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the authority, the chairman of the board and the secretary of the authority shall sign and file a written application in the name of and on behalf of the authority, under its seal, with the governing body of each determining subdivision, requesting such governing body to adopt a resolution approving the proposed amendment, and accompanied by a certified

copy of the said resolution adopted by the board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the said chairman may consider appropriate. As promptly as may be practicable after the filing of the said application with the governing body of a determining subdivision pursuant to the foregoing provisions of this section, that governing body shall review the said application and shall adopt a resolution either denying the said application or authorizing the proposed amendment. While it shall not be necessary that any such resolution be published in a newspaper or posted, the governing body of each determining subdivision with which such application is filed shall also cause a copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the minutes of the meeting of said governing body at which final action upon the said application is taken. The certificate of incorporation of an authority may be amended only after the filing of such an application therefor and the adoption by the governing body of each determining subdivision of an approving resolution.

Within 40 days following the adoption by the governing body of the determining subdivision of a resolution approving the proposed amendment (or, if there is more than one, the last adopted of such approving resolutions) the chairman of the board of the authority and the secretary of the authority shall sign, and file for record in the office of the judge of probate with which the certificate of incorporation of the authority was originally filed a certificate in the name of and in behalf of the authority, under its seal, reciting the adoption of said respective resolutions by the board and by the governing body of each determining subdivision and setting forth the said proposed amendment. The judge of probate for such county shall thereupon record said certificate in an appropriate book in his office. When such certificate has been so filed and recorded, such amendment shall become effective, and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment. No certificate of incorporation of an authority shall be amended except in the manner provided in this section."

**Section 6.** Section 11-89A-6 of the Code of Alabama 1975 is hereby amended to read as follows:

(a) Each authority shall have a board of directors composed of the number of directors provided in the certificate of incorporation, as most recently amended; provided, however, that in the case of any authority in existence and incorporated prior to the effective date of that act of the legislature that was introduced at the 1988 Regular Session of the Legislature of Alabama as House Bill 587, the board shall consist of three directors who shall be elected by the governing body of the determining subdivision for staggered terms

in accordance with the provisions of law as it existed immediately prior to the aforesaid effective date unless such authority shall otherwise amend its certificate of incorporation pursuant to the provisions of section 11-89A-5. Unless provided to the contrary in its certificate of incorporation, all powers of the authority shall be exercised, and the authority shall be governed, by the board or pursuant to its authorization. Subject to the provisions of the first sentence of this subsection (a) and to the provisions of subdivision (8) of subsection (b) of section 11-89A-4, the board shall consist of directors having such qualifications, being elected or appointed by such person or persons (including, without limitation, the board itself, the governing body or bodies of one or more determining subdivisions or other counties and municipalities, and other entities or organizations) and in such manner, and serving for such terms of office, all as shall be specified in the certificate of incorporation of the authority; provided, however, that no fewer than a majority of the directors shall be elected by the governing body or bodies of one or more of the determining subdivisions and the certificate of incorporation of each authority must contain provisions having this effect. Unless provided to the contrary in the certificate incorporation of an authority, any officer of any determining subdivision shall be eligible for appointment and may serve as a member of the board for the term for which he is appointed or during his tenure as an officer of such determining subdivision, whichever expires first.

(b) If, at the expiration of any term of office of any director, a successor thereto shall not have been elected or appointed, then the director whose term of office shall have expired shall continue to hold office until his successor shall be so elected or appointed. If at any time there should be a vacancy on the board, whether by death, resignation, incapacity, disqualification or otherwise, a successor director to serve for the unexpired term applicable to such vacancy shall be elected or appointed by the person or persons who elected or appointed the predecessor director. Each election or appointment of a director, whether for a full term or to complete an unexpired term, shall be made not earlier than 30 days prior to the date on which such director is to take office as such. Any director, irrespective of by whom elected or appointed, shall be eligible for reelection or reappointment.

(c) Each director shall serve as such without compensation but shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. A majority of the directors shall constitute a quorum for the transaction of business, but any meeting of the board may be adjourned from time to time by a majority of the directors present or may be so adjourned by a single director if such director is the only director present at such meeting. No vacancy in the membership of the board shall impair the right of a quorum

to exercise all the powers and perform all the duties of the board. The board shall hold regular meetings at such times as may be provided in the bylaws of the authority, may hold other meetings at any time and from time to time upon such notice as may be required by the bylaws of the authority, and must upon call of the chairman of the authority or a majority of the total number of directors, hold a special meeting, none of which meetings shall be subject to the provisions of section 13A-14-2 or other similar law. Whenever any notice is required by the bylaws of the authority to be given of any meeting of the board, a waiver thereof in writing, signed (whether before or after such meeting) by the person or persons entitled to such notice, shall be the equivalent to the giving of such notice. Any matter on which the board is authorized to act may be acted upon at any regular, special or called meeting. At the request of any director, the vote on any question before the board shall be taken by yeas and nays and entered upon the record. All resolutions adopted by the board shall be reduced to writing and signed by the secretary of the authority and shall be recorded in a well-bound book. Copies of such proceedings, when certified by the secretary of the authority, under the seal of the authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

(d) Any director may be impeached and removed from office in the same manner and on the same grounds provided in section 175 of the Constitution of Alabama of 1901 and the general laws of the state for impeachment and removal of the officers mentioned in said section 175."

**Section 7.** Section 11-89A-8 of the Code of Alabama 1975 is hereby amended to read as follows:

"(a) Every authority shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including (without limiting the generality of the foregoing) the following powers:

(1) To have succession in its corporate name for the duration of time (which may be in perpetuity, subject to the provisions of section 11-89A-21 specified in its certificate of incorporation;

(2) To sue and be sued in its own name in civil suits and actions and to defend suit against it;

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt, alter and repeal bylaws, regulations and rules, not inconsistent with the provisions of this chapter, for the regulation and conduct of its affairs and business;

(5) To acquire, whether by gift, purchase, transfer, foreclosure, lease or otherwise, to construct and to expand, improve, operate, maintain, equip and furnish one or more facilities, including all real and personal properties that its board may deem necessary in connection therewith, regardless of whether or not any such facility shall then be in existence and, if in existence, regardless of whether or not any such facility is then owned or leased by any person to which such facility may subsequently be sold or leased by such authority;

(6) To borrow money and to sell and issue bonds as hereinafter provided for any corporate use or purpose;

(7) To lease to any person or persons all or any part of any facility or facilities that are or are to be owned by it, to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof, all upon such terms and conditions as its board may deem advisable;

(8) To contract to sell, convey or dispose of and to sell, convey or dispose of all or any part of any recovered resources (including but not limited to the granting of options to purchase any recovered resources to any person), all for such consideration and upon such terms and conditions as its board may deem advisable;

(9) To enter into a contract or contracts with any person or persons granting to such person or persons the exclusive right to purchase or acquire from the authority any recovered resources or rights to recovered resources for such period as its board may deem advisable.

(10) To pledge for payment of any bonds issued or assumed by the authority any revenues (including proceeds of any special tax to which it may be entitled) from which such bonds are payable as provided in this chapter, and to mortgage or pledge any or all of its facilities and revenues or any part or parts thereof, whether then owned or received or thereafter acquired or received;

(11) To assume obligations secured by a lien on or secured by and payable out of or secured by a pledge of any facility or facilities or part thereof or the revenues derived from any facility or facilities that may be acquired by the authority;

(12) To make, enter into, and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which such authority was organized or to exercise any power expressly granted under this chapter;

(13) To enter into contracts with, to accept aid, loans and grants from, to cooperate with, and to do any and all things not specifically

prohibited by this chapter or other applicable laws of the state that may be necessary in order to avail itself of the aid and cooperation of the United States of America, the state or any agency, instrumentality or political subdivision of either thereof in furtherance of the purposes of this chapter;

(14) To receive and accept from any source aid or contributions in the form of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this chapter, subject to any lawful condition upon which such aid or contributions may be given or made;

(15) To appoint, employ and contract with such employees and agents, including but not limited to architects, engineers, attorneys, accountants, financial experts, fiscal agents, and such other advisors, consultants and agents as may in its judgment be necessary or desirable, and to fix their compensations;

(16) To enter into a management contract or contracts with any municipality, any county, or any person or persons for the management, supervision or operation of all or any part of its facilities as may in the judgment of such authority be necessary or desirable in order to perform more efficiently or economically any function for which it may become responsible in the exercise of the powers conferred upon it by this chapter;

(17) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as its board may deem desirable;

(18) To invest its moneys (including, without limitation, the moneys held in any special fund created pursuant to any trust indenture or agreement or resolution securing any of its bonds and proceeds from the sale of any bonds or notes) not required for immediate use in

(a) Any debt securities that are direct, general obligations of the United States of America;

(b) Any debt securities, the payment of the principal of and interest on which is unconditionally guaranteed by the United States of America;

(c) Any time deposit with, or any certificate of deposit issued by, any bank which is organized under the laws of the United States of America or any state thereof and deposits in which are insured by the Federal Deposit Insurance Corporation or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation; and



(d) Any debt obligation in which an insurance company organized under the laws of the state may legally invest its money at the time of investment by an authority;

(19) To procure or agree to the procurement of insurance or guarantees from the United States of America or any agency or instrumentality thereof, or from any private insurance company, of the payment of any bonds issued by such authority, and to pay premiums or fees for any such insurance or guarantees; and

(20) To do any and all things necessary or convenient to carry out its purposes and to exercise its powers pursuant to the provisions of this chapter.

(b) Any facility or facilities of an authority organized pursuant to determination by a determining municipality may be located within or without or partially within and partially without the determining municipality, subject to the following conditions:

(1) No such facility or part thereof shall be located more than 30 miles from the corporate limits of the determining municipality;

(2) No such facility or part thereof shall be located within the corporate limits of a municipality other than the determining municipality in this state;

(3) No such facility or part thereof shall be located within the police jurisdiction of another municipality in this state unless the governing body of such municipality has first adopted a resolution consenting to the location of such facility or part thereof in the police jurisdiction of such municipality; and

(4) No such facility or part thereof shall be located in a county other than that (or those) in which the determining municipality (or part thereof) is situated unless the governing body of such other county has first adopted a resolution consenting to the location of such facility or part thereof in such county.

(c) Any facility or facilities of an authority organized pursuant to determination by a determining county may be located within or without or partially within and partially without the determining county, subject to the following conditions:

(1) No part of a facility shall be located more than three miles outside the boundaries of the determining county;

(2) In no event shall any facility or part thereof be located within the corporate limits of a municipality unless the governing body of such municipality has first adopted a resolution consenting to the location of such facility or part thereof in such municipality; and

(3) No such project or part thereof shall be located in a county other than the determining county unless the governing body of such other county has first adopted a resolution consenting to the location of a part of such facility in such other county.

(d) Any facility or facilities of an authority jointly organized pursuant to determinations by two or more determining subdivisions may be located within or without or partially within and partially without the respective determining subdivisions, subject to the following conditions:

(1) No such facility or part thereof shall be located in a county other than (i) that (or those) in which any determining municipality (or part thereof) is situated or (ii) a county that is also a determining subdivision unless the governing body of such other county has first adopted a resolution consenting to the location of such facility or part thereof in such county; and

(2) No such facility or part thereof shall be located within the corporate limits of a municipality other than a determining municipality unless the governing body of such municipality has first adopted a resolution consenting to the location of such facility or part thereof in such municipality.

(e) Nothing herein contained shall be construed as granting to an authority the power to levy any taxes."

**Section 8.** Section 11-89A-9 of the Code of Alabama 1975 is hereby amended to read as follows:

"(a) Any authority shall have the power to issue, sell and deliver at any time and from time to time its bonds in such principal amount or amounts as its board shall determine to be necessary to provide funds:

(1) To finance the costs of a facility or facilities;

(2) To refund bonds theretofore issued or assumed by the authority;

(3) To provide funds to enable it to achieve any of its other corporate purposes; or

(4) To accomplish any one or more of the objectives referred to in subdivisions (1) through (4).

(b) Any such bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such tenor and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times, not exceeding 45 years from the date thereof, may be payable at such

place or places whether within or without the state of Alabama, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent with this chapter as shall be provided in the proceedings of the board whereunder such bonds shall be authorized to be issued. If such action shall be deemed advisable by the board, there may be retained in the proceedings under which any of such bonds are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited in the face of such bonds, but nothing contained in this section shall be construed to confer on the authority any right or option to redeem any such bonds except as may be provided in the proceedings under which they shall be issued.

(c) All bonds issued by the authority shall be signed by the chairman of its board or other chief executive officer and attested by its secretary and the seal of the authority shall be affixed thereto, and any interest coupons applicable to the bonds of the authority shall be signed by the chairman of its board or other chief executive officer; provided that a facsimile of the signature of one, but not both of said officers, may be printed or otherwise reproduced on any such bonds in lieu of a manual signature thereon, a facsimile of the seal of the authority may be printed or otherwise reproduced on any such bonds in lieu of being manually affixed thereto, and a facsimile of the signature of the chairman of its board or other chief executive officer may be printed or otherwise reproduced on any such interest coupons in lieu of a manual signature thereon.

(d) Prior to the preparation of definitive bonds, the authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(e) All obligations created or assumed and all bonds issued or assumed by the authority shall be solely and exclusively an obligation of the authority and shall not create an obligation or debt of the state, any determining subdivision, any county or municipality; provided, that the provisions of this subsection shall not be construed to release the original obligor from liability on any bond or other obligation assumed by the authority."

**Section 9.** Section 11-89A-15 of the Code of Alabama 1975 is hereby amended to read as follows:

“(a) For the purpose of attaining the objectives of this chapter, any county, municipality or other political subdivision, public corporation, agency or instrumentality of the state, a county or municipality may, upon such terms and with or without consideration, as it may determine, do any or all of the following:

(1) Lend or donate money to any authority or perform services for the benefit thereof;

(2) Donate, sell, convey, transfer, lease or grant to any authority, without the necessity of authorization at any election of qualified voters, any property of any kind;

(3) Do any and all things, whether or not specifically authorized in this section, not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with any authority in attaining the objectives of this chapter; and

(4) To pay to any authority the proceeds of any special tax appropriated, apportioned or allocated to such authority or to or for the benefit of any facility owned or operated by such authority.

(b) Any county, municipality or other political subdivision, public corporation, agency or instrumentality of the state, a county or municipality are each hereby authorized to enter into a contract or contracts obligating any such entity to dispose of its solid waste, or any part thereof, at a facility or facilities owned or operated by such authority and obligating such county, municipality or other political subdivision, public corporation, agency or instrumentality of the state, a county or municipality to make payments to such authority for such disposal. The terms, provisions and conditions of any such contract or contracts shall be such as a governing body of any such county, municipality or political subdivision, public corporation, agency or instrumentality of the state, a county or municipality deems appropriate. Any such contract or contracts may provide for the continuous disposal of such solid waste from year to year, but for a term not to exceed 45 years. Any costs to any such county, municipality or other political subdivision, public corporation, agency or instrumentality of the state, a county or municipality shall be paid annually out of the general operating funds of any such county, municipality or other political subdivision, public corporation, agency or instrumentality of the state or any county or municipality, and the entering into of such contract or contracts shall not constitute the incurring of a debt by such county, municipality or other political subdivision, public corporation, agency or instrumentality of the state

or any county or municipality within the meaning of any constitutional or statutory limitations on debts of the state, the counties or the municipalities."

**Section 10.** Section 11-89A-19 of the Code of Alabama 1975 is hereby amended to read as follows:

"An authority shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event a board shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of an authority, then any portion, as determined by the board, of the net earnings of an authority thereafter accruing may, in the discretion of the board, be paid to one or more of its determining subdivisions."

**Section 11.** Section 11-89A-21 of the Code of Alabama 1975 is hereby amended to read as follows:

"At any time when an authority has no bonds or other obligations outstanding, its board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the authority shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the judge of probate with which the authority's certificate of incorporation is filed, the authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall, subject to any constitutional prohibition or inhibitions to the contrary, thereupon vest in one or more counties or municipalities in such manner and interests as may be provided in the said certificate of incorporation; provided, however, that if said certificate of incorporation contains no provision respecting the vesting of title to the properties of the authority, title to all such properties shall, subject to any constitutional provisions or inhibitions to the contrary, thereupon vest in its determining subdivision, or if such authority shall have more than one determining subdivision, in its determining subdivisions as tenants in common."

**Section 12.** The provisions of this act are expressly declared to be severable. If any provision of this act shall be adjudged to be invalid by any court of competent jurisdiction, such provision shall be severed from this act in order to effectuate the legislative intent that such judgment shall not affect, impair or invalidate the remainder of this act, and the operation of such judgment shall be limited to the provision of this act directly involved in the action in which such judgment shall have been rendered.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 11, 1989

Time: 5:32 P.M.

Act No. 89-745

H. 342—Reps. Lindsey, Butler, Parker,  
Burke, Dillard, Harvey,  
Hamilton, Gaston, Moon,  
Logan, Venable, Holley,  
Laird, Willis, Clark (J),  
Curry, Sanderford and  
Wright

### AN ACT

To amend Sections 11-89-1, 11-89-3, 11-89-4, 11-89-5, 11-89-6, 11-89-7, 11-89-13, 11-89-17, and 11-89-18, of the Code of Alabama 1975 pertaining to water, sewer and fire protection districts so as to provide for the creation of districts as public corporations under Chapter 89 of Title 11 of the 1975 Code which would act as providers at wholesale of water or sanitary sewer service to municipalities, counties or other public corporations in the state or to particular customers of such municipalities, counties or public corporations at their written request, by providing for the incorporation of such supply districts, the amendment of their certificates of incorporation, election of their directors, and their powers, to empower any county, municipality or other political subdivision, public corporation, agency or instrumentality of this state to contract with such supply districts, including "take-or-pay" contracts, to authorize provisions for the dissolution of the district, to provide that the existence of a district shall not prevent the incorporation of another, to reduce the required number of directors of any district under the said Chapter 89 from five to three, and to reinsert provisions of Section 11-89-6 of the Code of Alabama 1975 which were deleted therefrom by mistake in 1986, and to make conforming changes in the aforesaid Sections to effectuate all of the foregoing.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-89-1 of the Code of Alabama 1975 is hereby amended to read as follows:

“§11-89-1. Definitions.

“When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) **APPLICANT.** A natural person who files a written application with the governing body of any county or municipality or public corporation in accordance with the provisions of section 11-89-3.

"(2) **AUTHORIZING RESOLUTION.** A resolution, adopted by a governing body in accordance with the provisions of section 11-89-3, that authorizes the incorporation of a district.

"(3) **AUTHORIZING SUBDIVISION.** Any county or municipality or public corporation the governing body of which shall have adopted an authorizing resolution.

"(4) **BOARD.** The board of directors of a district.

"(5) **BONDS.** Bonds, notes and certificates representing an obligation to pay money.

"(6) **CONCISE LEGAL DESCRIPTION.** A reasonably concise description of a particular geographic area which may be by metes and bounds or by reference to government surveys, recorded maps and plats, municipal, county or state boundary lines, well-defined landmarks and other monuments, or any combination of the foregoing.

"(7) **COUNTY.** Any county in the state.

"(8) **DIRECTOR.** A member of the board of directors of the district.

"(9) **DISTRICT.** A public corporation organized pursuant to the provisions of this chapter.

"(10) **FIRE PROTECTION FACILITY.** Land, plants, systems, facilities, buildings, fire engines, fire hydrants, ladders, equipment, hoses, alarm apparatus, chemicals, uniforms, supplies or any combination of any thereof used or useful or capable of future use in furnishing fire protection service and all other property deemed necessary or desirable by the district for use in furnishing fire protection service.

"(11) **FIRE PROTECTION SERVICE.** All services involved in protecting property and life from fires, including, but not limited to, discovering, ascertaining, extinguishing, preventing the spread of or fighting fires or inspecting property for fire hazards or any part or combination thereof. The supplying of water for use in the rendition of fire protection service shall be deemed to constitute fire protection service.

"(12) **GOVERNING BODY.** With respect to a county, its county commission, and, with respect to a municipality, its city or town council, board of commissioners or other like governing body and, with respect to a public corporation, its board of directors.

"(13) **INCORPORATORS.** The persons forming a public corporation organized pursuant to the provisions of this chapter.

"(14) **MUNICIPALITY.** An incorporated city or town of the state.

"(15) **NEW TERRITORY.** Any territory added, by amendment to the certificate of incorporation of a district, to the area or areas in which that district is authorized to render water service, fire protection service, sewer service or any thereof.

"(16) **PERSON.** Unless limited to a natural person by the context in which it is used, such term includes a public or private corporation, a municipality, a county or an agency, department or instrumentality of the state or of a county or municipality.

"(17) **PRINCIPAL OFFICE.** The place at which the certificate of incorporation and amendments thereto, the bylaws and the minutes of proceedings of the board of a district are kept.

"(18) **PROPERTY.** Real and personal property and interests therein.

"(19) **PUBLIC CORPORATION.** Any public corporation organized under the laws of the state.

"(20) **PUBLIC FIRE PROTECTION FACILITY.** A fire protection facility which is owned or operated by the United States of America, the state, a county, a municipality, a public corporation, any combination of any thereof or any agency or instrumentality of any one or more thereof or in which any one or more thereof or any agency or instrumentality of any one or more thereof holds a reversionary or remainder interest.

"(21) **PUBLIC SEWER SYSTEM.** A sewer system which is owned or operated by the United States of America, the state, a county, a municipality, a public corporation, any combination of any thereof or any agency or instrumentality of any one or more thereof or in which any one or more thereof or any agency or instrumentality of any one or more thereof holds a reversionary or remainder interest.

"(22) **PUBLIC WATER SYSTEM.** A water system which is owned or operated by the United States of America, the state, a county, a municipality, a public corporation organized under the laws of the state, any combination of any thereof or any agency or instrumentality of any one or more thereof or in which any one or more thereof or any agency or instrumentality of any one or more thereof holds a reversionary or remainder interest.

"(23) **SERVICE AREA.** The geographic area or areas in which a district is authorized by its certificate of incorporation or any amendment thereto to render water service, fire protection service, sewer service or any thereof, which area may include both territory located outside the boundaries of any municipality and territory located within the boundaries of one or more municipalities.

"(24) **SEWER SERVICE.** All services involved in collecting, transporting, treating and disposing of sanitary sewage or solid wastes



and the performing of all functions and activities reasonably incident to the operation of a sewer system.

“(25) SEWER SYSTEM. A sanitary sewer system, including mains, laterals, sewage disposal plants and sewage treatment plants and all appurtenances to such a system and all properties, rights, easements and franchises deemed necessary or desirable by the district for use in rendering sewer services. “Sewer system” shall also mean and include land, sanitary landfills, systems, facilities, buildings, trucks, compactors, automobiles, motor vehicles, equipment, incinerators, compost plants, chemicals, uniforms, supplies, offices and office equipment, and any combination of any thereof, and such other real or personal property, rights, easements and franchises as may be deemed necessary or desirable by the district for the collection, transportation, treatment, storage or disposal of solid wastes.

“(26) SOLID WASTES. All solid wastes and hazardous wastes as the same are defined in article 1 of chapter 27 of Title 22 of this Code.

“(27) STATE. The state of Alabama.

“(28) SUPPLY DISTRICT. A district which renders sewer service or water service only to one or more counties, municipalities or other public corporations, or to one or more customers of a county, municipality or public corporation at its written request.

“(29) WATER SERVICE. The providing, furnishing, supplying or distributing of water and the performing of all of the functions and activities reasonably incident to the operation of a water system.

“(30) WATER SYSTEMS. Land, plants, systems, facilities, buildings and other property or any combination of any thereof which are used or useful or capable of future use in providing, furnishing, supplying or distributing water, including but not limited to, water supply systems, water distribution systems, reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, meters, valves and all necessary appurtenances and equipment and all properties, rights, easements and franchises deemed necessary or desirable by the district for use in rendering water service.”

**Section 2.** Section 11-89-3 of the Code of Alabama 1975 is hereby amended to read as follows:

“§11-89-3. Filing of application for incorporation of district; adoption of resolutions approving or denying application, etc. by governing bodies.

“(a) In order to incorporate a district under this chapter, any number of natural persons, not less than three, shall first file an

identical written application with the governing body of each county and municipality located in whole or in part within the boundaries of the area or areas to be served by the proposed district, or, if the district is to be a supply district, with the governing body of each county, municipality and public corporation to be served by the proposed district. Such application shall contain:

“(1) A statement that the district proposes to render water service, sewer service and fire protection service or any one or more there;

“(2) (i) A concise legal description of the area or areas in which the district proposes to render water service, sewer service and fire protection service or any thereof, a designation of the type or types of service proposed to be rendered in such area or in each of such areas and the name of each county and municipality located in whole or in part within the boundaries of such area or areas, or, (ii) if the district is to be a supply district, the name of each county, municipality and public corporation proposed to be served;

“(3) A proposed total number of directors, which shall be at least equal to the total number of counties and municipalities and public corporation with the governing bodies of which such application is filed, but in no event less than three, and proposed provisions for the election of each director by one of such governing bodies and for the election of at least one director by each of said governing bodies; and, if the district will be a supply district, any proposal to give the directors proportional voting power based upon the quantity of water to be taken or paid for by the entities which will elect the directors, the percentage of indebtedness of the district for which the entities electing the directors will be guarantors, or any other measure for establishing proportional voting power of directors;

“(4) The proposed location of the principal office of the district, which shall be within a county with the governing body of which such application is filed or within a county which is served in whole or in part by a public corporation with the governing body of which such application is filed;

“(5) A statement that each of the applicants is a duly qualified elector of the county or one of the counties with the governing bodies of which such application is filed or a county which is served in whole or in part by a public corporation with the governing body of which such application is filed; and

“(6) A request that each of such governing bodies adopt a resolution declaring that it is wise, expedient and necessary that the proposed district be formed and authorizing the applicants to proceed to form the proposed district by the filing for record of a certificate of incorporation in accordance with the provisions of section 11-89-4.

"Such application may also state a proposed plan for apportioning the properties of the district upon its dissolution among the public entities with the governing bodies of which such application is filed. Any proposed service area described in any such application shall lie wholly within the boundaries of the county or counties with the governing bodies of which the application is filed and no part of any proposed described service area shall lie within the boundaries of any municipality with the governing body of which the application is not filed. Every such application shall be accompanied by such supporting documents or evidence as the applicants may consider appropriate.

"(b) As promptly as may be practicable after the filing of the application in accordance with the provisions of subsection (a) of this section, each governing body with which the application was filed shall review the contents of the application, and shall adopt a resolution either denying the application or declaring that it is wise, expedient, and necessary that the proposed district be formed and authorizing the applicants to proceed to form the proposed district by the filing for record of a certificate of incorporation in accordance with the provisions of section 11-89-4. Each governing body with which the application is filed shall also cause a copy of the application to be spread upon or otherwise made a part of, the minutes of the meeting of such governing body at which final action upon said application is taken.

**Section 3.** Section 11-89-4 of the Code of Alabama 1975 is hereby amended to read as follows:

"§11-89-4. Filing of certificate of incorporation, copies of resolutions of governing bodies, etc., with probate judge; contents and execution of certificate of incorporation; notification of secretary of state of recordation of certificate of incorporation by probate judge.

"(a) Within 40 days following the adoption of an authorizing resolution or, in the event an application was filed with more than one governing body, within 40 days following the adoption of an authorizing resolution by that governing body that was the last to adopt an authorizing resolution, but if and only if each other governing body with whom such application was filed has theretofore adopted an authorizing resolution, the applicants shall proceed to incorporate a district by filing for record in the office of the judge of probate of the county in which the principal office of the district is to be located, as specified in the certificate of incorporation provided for in this section, a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form executed in the manner provided in this section; provided, that any district incorporated prior to November 14, 1975,

and which, according to the provisions of its certificate of incorporation, is authorized to render sewer service and own and operate a sewer system, shall be authorized to own and operate a solid waste collection and disposal system in the service area in which it is authorized to render sewer service and own and operate a sewer system, without any further action or authorization and without amending its certificate of incorporation, and without changing its name to indicate the additional service it is authorized to render.

“(b) The certificate of incorporation of the district shall state:

“(1) The names of the persons forming the district and that each of them is a duly qualified elector of an authorizing subdivision or of a county which is served in whole or in part by an authorizing subdivision;

“(2) The period for the duration of the district (if the duration is to be perpetual, subject to the provisions of section 11-89-17, that fact shall be stated);

“(3) The name of each authorizing subdivision, together with the date on which the governing body thereof adopted an authorizing resolution;

“(4) The location of the principal office of the district, which shall be the same as that stated in the applications required by section 11-89-3;

“(5) (i) A concise legal description of the area or areas in which the district proposes to render water service, sewer service and fire protection service or any thereof and a designation of the type or types of service proposed to be rendered in such area or in each of such areas, or, (ii) if the district is to be a supply district, the name of each county, municipality and public corporation proposed to be served;

“(6) The total number of directors and the number of directors which the governing body of each authorizing subdivision shall be entitled to elect; and, if the district will be a supply district, any provision to give the directors proportional voting power based upon the quantity of water to be taken or paid for by the entities which will elect the directors, the percentage of indebtedness of the district for which the entities electing the directors will be guarantors, or any other measure for establishing proportional voting power of directors;

“(7) A plan for apportioning the properties of the district upon its dissolution among the authorizing subdivisions, but only if such plan was stated in the application filed with the governing bodies of the authorizing subdivisions in accordance with the provisions of section 11-89-3;

"(8) A statement that the application filed with the governing body of each of the authorizing subdivisions in accordance with section 11-89-3 was identical to the copy thereof attached to said certificate of incorporation; and

"(9) Any other matters relating to the district that the incorporators may choose to insert and that are not inconsistent with this chapter or with the laws of the state.

"(c) To the extent that any matter required by the provisions of subsection (b) of this section to be included in the certificate of incorporation of a district is also required or permitted to be included in the application theretofore filed with the authorizing subdivisions in accordance with the provisions of section 11-89-3, including, but without limitation to, any matter relating to the type or types of service proposed to be rendered by the district, any service area, the number and method of electing directors, the location of the principal office of the district and apportioning the properties of the district upon its dissolution, the provisions of the certificate of incorporation with respect to such matter shall be in strict accordance with the corresponding provisions of such application.

"(d) The certificate of incorporation shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgments to deeds. When the certificate of incorporation is filed for record, there shall be attached to it a copy of the application as filed with the governing body of each of the authorizing subdivisions in accordance with the provisions of section 11-89-3, a certified copy of the authorizing resolution adopted by the governing body of each authorizing subdivision and a certificate by the secretary of state that the name proposed for the district is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty. Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the district shall come into existence and shall constitute a public corporation under the name set forth in said certificate of incorporation. The judge of probate shall thereupon send a notice to the secretary of state that the certificate of incorporation of the district has been filed for record."

**Section 4.** Section 11-89-5 of the Code of Alabama 1975 is hereby amended to read as follows:

"§11-89-5. Authorization and procedure for amendment of certificate of incorporation.

"(a) The certificate of incorporation of any district incorporated under the provisions of this chapter may at any time and from time to time be amended in the manner provided in this section.

“(b) (1) The board of directors of the district shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall set forth in full in the said resolution and which amendment may include:

“a. A change in the name of the district;

“b. The addition to the service area of the district of new territory lying within any municipality, or, in the case of territory not lying within any municipality, any county in which the district's then existing service area lies;

“c. Provisions for the operation of a system or facility the operation of which is not then provided for in the certificate of incorporation of the district and which the district is authorized by this chapter to operate;

“d. Any matters which might have been included in the original certificate of incorporation;

“e. Provisions for the addition to the service area of the district of new territory not lying within any municipality or, in the case of territory not lying within any municipality, any county in which the district's then existing service area lies, together with the related provisions referred to in paragraphs a, b and c of subdivision (2) of this subsection; and

“f. In the case of a supply district which proposes to cease being only a supply district, the creation of a service area for the district.

“(2) If any proposed amendment would add any new territory to the service area of a district, or create a service area, such proposed amendment shall include a concise legal description of the proposed new territory or proposed service area and a designation of the type or types of service proposed to be rendered therein. If any proposed amendment would add to the service area of the district new territory or create a service area any part of which does not lie within any municipality or, in the case of territory or service area not lying within any municipality, any part of which does not lie within any county in which any then existing service area lies, such proposed amendment shall include, in addition:

“a. Provisions for each election of at least one director by the governing body of each county and municipality in which any part of the proposed new territory or the proposed service area lies;

“b. Provisions for any change in the total number of directors that the board deems appropriate; and, if the district is a supply district, any provision to give the directors proportional voting power based upon the quantity of water to be taken or paid for by the entities which will elect the directors, the percentage of indebtedness

of the district for which the entities electing the directors will be guarantors, or any other measure for establishing proportional voting power of directors; provided, however, that the total number of directors shall be at least equal to the number of directors immediately before the amendment, plus the number added pursuant to paragraph a of this subdivision (2); and

“c. Any provision that the board deems appropriate for apportioning of the properties of the district upon its dissolution among its customers, if it is a supply district, or among the counties and municipalities in which its service area will lie upon the filing for record of said proposed amendment.

“(3) If the proposed amendment makes provision for the operation of a system or facility not then provided for in the certificate of incorporation of the district, such proposed amendment shall also include, in addition to a concise legal description of the area or areas in which the district proposes to render service from such system or facility provision for an appropriate change in the name of the district.

“(4) It shall not be necessary for a supply district to amend its certificate of incorporation merely to add one or more additional municipalities, counties or public corporations as customers.

“(c) After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the district, the chairman of the board or other chief executive officer of the district and the secretary of the district shall sign and file a written application in the name of and on behalf of the district, under its seal, with the governing body of each authorizing subdivision and each additional county and municipality in which any part of the district's then existing service area lies and with the governing body of each county and municipality in which any part of the proposed new territory or the proposed service area lies. Such application shall request each governing body with which the application is filed to adopt a resolution approving the proposed amendment and shall be accompanied by a certified copy of the said resolution adopted by the board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the said chairman or other chief executive officer may consider appropriate.

“(d) As promptly as may be practicable after the filing of the said application with any governing body pursuant to the provisions of subsection (c) of this section, that governing body shall review the said application and shall adopt a resolution either denying the said application or authorizing the proposed amendment. Each governing body with which the application is filed shall also cause a

copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the minutes of the meeting of said governing body at which final action upon the said application is taken.

“(e) Within 40 days following the adoption by the governing body with which the said application shall have been filed of a resolution approving the proposed amendment or, in the event said application was filed with the governing bodies of more than one county or public corporation or municipality, within 40 days following the adoption of such a resolution by that governing body that was the last to adopt such a resolution, but if and only if the governing body of each other county, public corporation and municipality with whom such application was filed has theretofore adopted such a resolution, the chairman of the board or other chief executive officer of the district and the secretary of the district shall sign and file for record in the office of the judge of probate of the county where the certificate of incorporation of the district was filed a certificate in the name of and in behalf of the district, under its seal, reciting the adoption of said respective resolutions by the board and by each of the said governing bodies and setting forth the said proposed amendment. If the proposed amendment provides for a change in the name of the district, there shall be filed, together with the certificate required by the immediately preceding sentence, a certificate of the secretary of state showing that the proposed new name of the district is not identical to that of any other corporation then in existence and organized under the laws of this state or so nearly similar to that of any other such corporation so as to lead to confusion and uncertainty. Upon the filing for record of each such certificate, the said amendment to the certificate of incorporation shall become effective. If the proposed amendment effects a change in the name of the district, the judge of probate shall promptly send a notice to the secretary of state, advising him of such change.”

**Section 5.** Section 11-89-6 of the Code of Alabama is hereby amended to read as follows:

“§11-89-6. Board of directors:

“Each district shall be governed by a board of directors. All powers of the district shall be exercised by the board or pursuant to its authorization. Subject to the provisions of sections 11-89-3 and 11-89-4, the board shall consist initially of that number of directors, apportioned among and elected by the authorizing subdivisions, as shall be specified in the certificate of incorporation of the district. The initial term of office of each such director shall begin immediately upon his election and shall end at 12:01 A.M. on the fourth anniversary date of the filing for record of the certificate of incorporation of the district. Thereafter, the term of office of each



such director shall be four years; provided however, each county commission may, if they desire, number the place of each director and prescribe one-, two-, three- or four-year terms for each place so as to stagger the terms of office of the directors.

"If any amendment to the certificate of incorporation of the district effected in accordance with the provisions of section 11-89-5 shall increase the membership of the board, the board shall thereafter consist of such number of directors, elected by such governing bodies, as may be specified in the said amendment. The initial term of office of each new director added by any such amendment shall begin immediately upon his election and shall end at 12:01 A.M. on the fourth anniversary date of the filing for record of such amendment. The term of office of each new director, added by amendment as aforesaid, shall, following the initial term of such new director, be for a period of four years. If at any time there should be a vacancy on the board, a successor director to serve for the unexpired term applicable to such vacancy shall be elected by that governing body which elected the director whose unexpired term he is to fill. Each election of a director, whether for a full four-year term or to complete an unexpired term, shall be made not earlier than 30 days prior to the date on which such director is to take office as such. No officer of the state or of any county or municipality shall, during his tenure as such officer, be eligible to serve as a director.

"Each director of a district, other than a supply district, elected by a county governing body must be a duly qualified elector of that county from which he was elected, or, if elected by a municipality of less than 2,000 inhabitant according to the most recent decennial census, such director must be a duly qualified elector of that county in which such municipality is located, or, if elected by a municipality of 2,000 or more inhabitants according to said census, such director must be a duly qualified elector of the municipality from which he was elected. Directors shall be eligible for reelection. Each director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. If the certificate of incorporation so provides, each director, except the chairman of the board, shall be compensated in an additional amount as prescribed by the governing body of each authorizing subdivision. The chairman shall, if said certificate so provides, be compensated in an additional amount as prescribed by the governing body of each authorizing subdivision.

"Any director of the district may be impeached and removed from office in the same manner and on the same grounds provided by section 175 of the Constitution of Alabama and the general laws of the state for impeachment and removal of the officers mentioned in said section 175.

"If the certificate of incorporation so provides, the directors shall have proportional voting power, based on the measure or measures set out in the certificate of incorporation."

**Section 6.** Section 11-89-7 of the Code of Alabama 1975 is hereby amended to read as follows:

"§11-89-7. Powers of district generally; power of district to acquire, operate, etc., systems, etc., outside service area; provisions in schedules of rates and charges generally.

"(a) The district shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

"(1) To have succession by its corporate name for the duration of time (which may be perpetuity, subject to the provisions of section 11-89-17) specified in its certificate of incorporation;

"(2) To sue and be sued in its own name in civil actions, except as otherwise provided in this chapter, and to defend civil actions against it;

"(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

"(4) To adopt and alter bylaws for the regulation and conduct of its affairs and business;

"(5) To acquire, receive and take, by purchase, gift, lease, devise or otherwise, and to hold property of every description, real, personal or mixed, whether located in one or more counties or municipalities and whether located within or outside the service area;

"(6) To make, enter into and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which the district was organized or to exercise any power expressly granted under this section;

"(7) To plan, establish, develop, acquire, purchase, lease, construct, reconstruct, enlarge, improve, maintain, equip and operate water systems, sewer systems and fire protection facilities or any part or combination of any thereof, whether located in one or more counties or municipalities and whether located within or outside any service area and without any requirement that such water systems, sewer systems or fire protection facilities or all or any part of any thereof be interconnected or otherwise constitute an integrated operational unit, and to acquire real and personal property, franchises and easements deemed necessary or desirable in connection therewith;

"(8) To distribute and sell water, either at retail or for resale, within the service area or in any part thereof or to or on behalf of

one or more counties, municipalities or other public corporations upon such reasonable terms and for such reasonable rates and consideration as the board may prescribe;

“(9) To furnish and provide sewer service in the service area or in any part thereof or to or on behalf of one or more counties, municipalities or other public corporations upon such reasonable terms and for such reasonable rates and consideration as the board may prescribe; provided, however, that nothing in this chapter shall authorize any district to collect, transport, treat or dispose of solid wastes or charge for the collection, transportation, treatment or disposal of solid wastes from any industrial, manufacturing or utility plant without consent from the owners or operators of such plant;

“(10) To furnish and provide fire protection service in the service area or in any part thereof or to or on behalf of one or more counties, municipalities or other public corporations upon such reasonable terms and for such reasonable rates and consideration as the board may prescribe;

“(11) To sell and issue bonds of the district in order to provide funds for any corporate function, use or purpose, any such bonds to be payable solely out of the revenues derived from any water system, sewer system and fire protection facility or any thereof of the district;

“(12) To assume obligations secured by a lien on or payable out of or secured by a pledge of the revenues from any water system, sewer system and fire protection facility or any part of any thereof that may be acquired by the district, any obligation so assumed to be payable by the district solely out of the revenues derived from the operation of any water system, sewer system and fire protection facility or any thereof of the district;

“(13) To pledge for payment of any bonds issued or obligations assumed by the district any revenues from which those bonds or obligations are made payable as provided in this chapter;

“(14) To execute and deliver, in accordance with the provisions of this section and of sections 11-89-8 and 11-89-9, mortgages and deeds of trust and trust indentures or either;

“(15) To exercise the power of eminent domain in the manner provided in and subject to the provisions of Title 18 of this Code; provided, that this subdivision shall not be deemed to authorize the district to acquire, without the consent of the owner or owners thereof, any water supply system or water distribution system from which water service is at the time being furnished, any sewer system from which sewer service is at the time being furnished or any property that is at the time being used in the furnishing of fire

protection service; provided further, that such right of eminent domain shall not apply to real property or interests therein previously dedicated to public use; and provided further, nothing herein shall authorize any district, county, municipality, public corporation or other authorizing subdivision to acquire any portion of or withdraw water from any hydroelectric project licensed by the Federal Energy Regulatory Commission or any predecessor or successor agency without the consent of the owner and licensee of said project and the approval of the Federal Energy Regulatory Commission or any successor agency.

“(16) To appoint, employ, contract with and provide for the compensation of such officers, employees and agents, including, but without limitation to, engineers, attorneys, management consultants and fiscal advisers as the business of the district may require, and, at its option, to provide a system of disability pay, retirement compensation and pensions or any of them without regard to any provisions of sections 41-16-50 through 41-16-63 that might otherwise be applicable.

“(17) To make and enforce reasonable rules and regulations governing the use of any water system, sewer system or fire protection facility owned or controlled by the district;

“(18) To provide for such insurance as the board may deem advisable;

“(19) To invest any funds of the district that the board may determine are not presently needed in the operation of its properties in bonds of the United States of America, bonds of the state, bonds of any county or municipality and interest-bearing bank deposits or any thereof;

“(20) To cooperate with the United States of America, any agency or instrumentality thereof, the state, any county, municipality or other political subdivision of the state and any public corporation and to make such contracts with them or any of them, as the board may deem advisable to accomplish the purpose for which the district was established;

“(21) To sell and convey any of its properties that may have become obsolete or worn out or that may no longer be needed or useful as a part of any water system, sewer system or fire protection facility of the district;

“(22) To sell and convey, with or without valuable consideration, any of its water systems, sewer systems or fire protection facilities or any portion of any of the said systems and facilities to any one or more counties; municipalities or public corporations which have the corporate power to operate the system and facilities or portions

thereof so conveyed and the property and income of which are not subject to taxation; provided, that any such sale and conveyance may be made only with the consent of each county and municipality in which any part of any service area of the district is then located, or, with respect to a supply district, the consent of each authorizing subdivision, any such consent to be evidenced by a resolution adopted by the governing body of each consenting county and municipality, or authorizing subdivision, as the case may be, and only if any such conveyance would not constitute a breach of any then outstanding mortgage and deed of trust, trust indenture or other agreement to which the district is a party;

“(23) To enter into a management agreement or agreements with any person for the management by the district of any water system, sewer system or fire protection facility or any thereof upon such terms and conditions as may be mutually agreeable;

“(24) To fix and revise from time to time reasonable rates, fees and other charges for water service, sewer service, fire protection service, or any thereof, furnished or to be furnished by any water system, sewer system or fire protection facility, or portion of any thereof, owned or operated by the district, and to collect all charges made by it; and

“(25) To require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay rates, fees, or charges for the use of or for the services furnished by any water system, sewer system or fire protection system owned or operated by the district under the provisions of this chapter to make a reasonable deposit with the district in advance to insure the payment of such rates, fees or charges and to be subject to the application to the payment thereof if and when delinquent.

“(b) Nothing in this section shall be construed to permit a district other than a supply district to acquire, receive, take, hold, establish, develop, construct, reconstruct, enlarge, improve, maintain, equip or operate any property or water system, sewer system and fire protection facility or any part or combination of any thereof located outside the service area, except as an incident to the rendering of water service, sewer service and fire protection service or any thereof inside the service area to render water service, sewer service and fire protection service or any thereof unless such district is authorized so to do in its certificate of incorporation and any amendments thereto:

“(c) Any schedule or schedules of rates and other charges adopted by the board may:

“(1) Provide for the rendition by the district to customers served by it of combined statements or bills for service furnished from its

water systems, its sewer systems and its fire protection facilities or any one or more of any thereof;

“(2) Permit the district to decline to accept payment of charges for service from any of its said systems and facilities, without payment of charges for service at the same premises from any one or more of its other systems and facilities;

“(3) Provide for a discontinuance of service from any or all of its said systems and facilities at any premises with respect to which there is a delinquency in the payment of charges for service from any system or facility of the district;

“(4) Provide for the payment of connection fees, disconnection fees and reconnection fees; and

“(5) Require, as a prerequisite to the rendition of any service, the making of a deposit as a security for payment of bills, on which deposit the district shall not be obligated to pay or allow interest.”

**Section 7.** Section 11-89-13 of the Code of Alabama 1975 is hereby amended to read as follows:

“§11-89-13. Loans, sales, grants, etc., of money, property, etc., to district by counties, municipalities, public corporations, etc.

“For the purpose of securing water service, sewer service or fire protection service or aiding or cooperating with the district in the planning, development, undertaking, construction, extension, improvement, operation or protection of water systems, sewer systems and fire protection facilities, any county, municipality or other political subdivision, public corporation, agency or instrumentality of this state may, upon such terms and with or without consideration, as it may determine:

“(1) Lend or donate money to, guarantee all or any part of the indebtedness of, or perform services for the benefit of the district;

“(2) Donate, sell, convey, transfer, lease or grant to the district, without the necessity of authorization at any election of qualified voters, any property of any kind, including, but without limitation, any water system, sewer system or fire protection facility, any interest in any thereof and any franchise;

“(3) Contract with the district under such terms as may be mutually agreeable, including a contract obligating it to purchase a certain quantity of water from the district in a stipulated period of time, or to pay for such quantity of water whether or not it receives it; and

“(4) Do any and all things, whether or not specifically authorized in this section, not otherwise prohibited by law, that are necessary

or convenient to aid and cooperate with the district in the planning, undertaking, construction or operation of water systems, sewer systems and fire protection facilities.”

**Section 8.** Section 11-89-17 of the Code of Alabama 1975 is hereby amended to read as follows:

“§11-89-17. Authorization and procedure for dissolution of district; vesting of title to properties of district and apportionment thereof upon dissolution of district.

“At any time when the district has no bonds or other obligations outstanding, the board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the district shall be dissolved. Upon the filing for record of a certified copy of the said resolution in the office of the judge of probate of the county in which the district’s certificate of incorporation was filed the district shall thereupon stand dissolved and, in the event it owned any property at the time of its dissolution, the title to all its property shall thereupon pass to and be divided and apportioned among the counties and municipalities in which any part of the service area may be located, or, if it is a supply district, among its authorizing subdivisions, all in such manner and to such extent as may be provided in the district’s certificate of incorporation, as amended; provided, however, that in the absence of a contrary provision in the said certificate of incorporation, as amended, title to real estate and tangible personal property, other than cash, shall vest in the county or municipality, as the case may be, in which the said real estate or tangible personal property is located and the title to cash on hand and in banks, accounts receivable, choses in action and other intangible property, other than intangible interest in land, shall vest in all of the counties and municipalities in which any part of the service area lies. Each such county and municipality shall have title to said cash and intangible items as a tenant in common thereof, the fractional interest of each such tenant in common in said items being represented by a fraction the numerator of which is an amount equal to the gross revenues derived by the district during its then next preceding complete fiscal year from service rendered in that part of its service area within that county or municipality, as the case may be, and the denominator of which is an amount equal to the gross revenues derived by the district during the same period from services rendered in its entire service area. For the purposes of this section only, real and tangible personal property, other than cash, located and service rendered wholly within a municipality shall not be deemed to be located or rendered, as the case may be, in a county.”

**Section 9.** Section 11-89-18 of the Code of Alabama 1975 is hereby amended to read as follows:

“§11-89-18. Existence of district not to prevent subsequent incorporation, etc., of another district.

“The existence of one or more districts incorporated under the provisions of this chapter shall not prevent the subsequent incorporation under this chapter of another district or the amendment of the certificate of incorporation of another district pursuant to authority granted by the same county, counties, municipality or municipalities, public corporation or public corporations, or by the same combination thereof, even though the service area described in the certificate of incorporation, as originally filed or amended, of any existing district may include territory that lies within the proposed service area of a district that is proposed to be incorporated under this chapter or that proposes to amend its certificate of incorporation under this chapter.”

**Section 10.** This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:33 P.M.

Act No. 89-746

H. 518—Rep. Hill

## AN ACT

Relating to the Teachers' Retirement System of Alabama, providing that any person employed in a circuit clerk's office may purchase credit for such service regardless of the manner in which such funds were paid or the source of such funds' providing for the cost of such credited service and providing for the expiration of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any acting and contributing member of the Teachers' Retirement System of Alabama may elect to purchase credit for any full time employment in the office of a clerk of the circuit court in the state of Alabama provided they comply with the following conditions prescribed in this act.

**Section 2.** Any employee electing to purchase credit under Section 1 of this act shall pay to the Secretary-Treasurer of the Teachers' Retirement System within one year after the effective date of this act a lump sum payment equal to a percentage of the current annual salary of such member. The applicable percentage shall be the sum of the prevailing percentage rates of employer and member contribution as required by the most recent actuarial valuation.

**Section 3.** Anything in this section to the contrary notwithstanding a member of the Teachers' Retirement System shall not



receive credit for such service where at the time of retirement he has credit or is entitled to receive any benefits whatsoever for the same service under any other retirement or pension plan which is wholly or partly funded from public funds; provided, however, that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of such service credit, contributions made under this section by the member shall be refunded to him.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective October 1, 1989 upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:34 P.M.

Act No. 89-747

H. 622—Reps. White (L), Beasley, Haynes,  
Butler, Johnson (RG) and Mikell

### AN ACT

To amend Section 34-23-70, Code of Alabama 1975, relating to the act of filling prescriptions, so as to allow the board of pharmacy to define the act of filling or compounding prescriptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-23-70, Code of Alabama 1975, is hereby amended to read as follows:

“§34-23-70.

“(a) Every pharmacy when opened for business shall be under the personal supervision of a duly licensed pharmacist who shall have personal supervision of not more than one pharmacy at the same time. During temporary absences of the licensed pharmacist, not to exceed three hours daily or more than one and one-half hours at any one time, nor more than one week for temporary illness, the prescription department shall be closed, and no prescriptions are to be filled. During the temporary absence of a pharmacist, a sign shall be placed on the prescription counter in a prominent location easily

seen by the public stating, 'Prescription Department Closed, No Pharmacist on Duty.'

"(b) The permit issued to each pharmacist by the board and the licensure certificates issued to the licensed pharmacist employed by each pharmacy must be prominently and conspicuously displayed in the pharmacy. The name of the licensed pharmacist on duty must be conspicuously displayed in the prescription department in a place readily observable by the public.

"(c) No licensed pharmacist or pharmacy operating within this state shall accept for refund purposes or otherwise any unused portion of any dispensed prescription.

"(d) The sale of poisons is restricted to the immediate supervision of a licensed pharmacist, and such poison shall not be displayed in a pharmacy in such a manner that a customer may obtain possession of such poisons when standing in an area allocated for customer use. No sale of a poison shall be made or delivered to any minor under 12 years of age or to any person known to be of unsound mind or under the influence of alcohol.

"(e) No pharmacy shall authorize any person, firm or business establishment to serve as a pick-up station or intermediary for the purpose of having prescriptions filled or delivered, whether for profit or gratuitously.

"(f) No prescription blank supplied by a pharmacy or pharmacist to a practitioner shall bear the imprint thereon of the name or address of any pharmacy or bear the name or address of any person registered under this chapter.

"(g) No person shall fill or compound a prescription or drug order in an institution unless he is a duly licensed pharmacist or otherwise permitted to do so under the provisions of this chapter. The act of filling or compounding prescriptions or drug orders in an institution shall be as defined in the rules and regulations adopted by the board of pharmacy.

However, such rules and regulations shall not apply to the reading, interpreting and writing or verifying the writing of adequate directions as are necessary to assure patient's understanding of the prescriber's intentions by a duly qualified nurse practicing her/his profession in a licensed hospital or similar institution.

Nothing in this act shall authorize the Board of Pharmacy to promulgate or to enforce any rule or regulation which governs, regulates or restricts the professional practice of a physician licensed to practice medicine in this state. No provision of this act, or any rule promulgated under the authority of this act shall be interpreted

to amend, alter or modify the provisions of Section 34-23-11 of this Code.

“(h) Only a licensed pharmacist or registered intern may accept an oral prescription of any nature. Upon so accepting such oral prescription, it must immediately be reduced to writing, and only a licensed pharmacist or an intern supervised by a licensed pharmacist may prepare a copy of a prescription or read a prescription to any person for purposes of providing reference concerning treatment of the person or animal for whom the prescription was written; and, when said copy is given, a notation shall be made upon the prescription that a copy has been given, the date given and to whom given.

“(i) If a prescription is refilled, a record of the date upon which the prescription is refilled must appear on the prescription or in a permanent prescription record book. On prescriptions which may be refilled, written or oral authorization must be received before refilling unless the number of refills is indicated on the original prescription. Those prescriptions marked ‘refill prn’ or equivalent designation shall be refilled only in quantities commensurate with the dosage scheduled.

“(j) Each prescription must be written in a manner so that it can be compounded by any registered pharmacist. The coding of any prescription is in violation of this chapter. No prescription shall be written in any characters, figures or ciphers, other than in the English or Latin language, generally in use among medical and pharmaceutical practitioners.

“(k) A prescription file or files shall be kept by every pharmacy for a period of not less than two years in which the original of every prescription compounded or dispensed shall be filed in the order of compounding with number and date of dispensing placed on each prescription. Each pharmacy shall produce any prescription file whenever legally required to do so. Such prescription file shall at all times be open for inspection by the prescriber, the board of pharmacy or its inspectors.

“(l) All drugs or drug preparations bearing upon the package the words, ‘caution, federal law prohibits dispensing without prescription’ or words to the same effect, otherwise known as ‘legend drugs,’ shall be stored within the confines of the prescription department or the prescription department storage room of each pharmacy. Such drugs shall be sold or dispensed only on the prescription of a licensed practitioner authorized to prescribe such drugs and shall not be sold or dispensed as refilled prescription except upon the express authorization of the prescriber. This shall not be construed to prohibit return to authorized suppliers or sale or transfer to others licensed to possess legend drugs.

“(m) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:35 P.M.

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Act No. 89-748

H. 696—Rep. Laird

AN ACT

Relating to Randolph County; abolishing the office of constable and providing an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Randolph County the office of constable shall be abolished, pursuant to Act. No. 84-757, S. 112, First Special Session, 1984. All assets, money, property, real or personal, equipment and supplies belonging to such office shall be transferred to the county governing body for use or disposition as they shall deem proper for the county.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:36 P.M.

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Act No. 89-749

H. 734—Rep. Layson

AN ACT

To further amend Section 40-23-5, Code of Alabama 1975, as last amended, by Act No. 88-542, S. 204, Regular Session 1988, relating to the exemption of certain worthy organizations and vendors from the payment of state, county and municipal sales and use taxes, so as to provide for further exemptions of certain county public hospital associations and their lessees and successors organized pursuant to Section 10-3A-1, et seq., Code of Alabama 1975, as amended, nonprofit corporations; and to make the provisions retroactive.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-5, Code of Alabama 1975, as last amended, is hereby further amended to read as follows:

“§40-23-5.

“(a) The Diabetes Trust Fund, Inc., and any of its branches or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales or use taxes.

“(b) The Chilton county rescue squad is hereby exempted from paying any sales or use taxes.

“(c) The state headquarters only of the American Legion, the American Veterans of World War II, Korea and Vietnam (a/k/a ‘AMVETS’), the Disabled American Veterans, the Veterans of Foreign Wars (a/k/a VFW), Alabama Goodwill Industries and the Alabama sight conservation association are hereby exempted from paying any state, county or municipal sales or use taxes.

“(d) The Grand Chapter of all Orders of the Eastern Star and the South Alabama State Fair Association Southeastern Livestock Exposition of the state of Alabama and any of its agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales and use taxes.

“(e) The Alabama Goodwill Industries, Inc., of Birmingham is hereby exempted from paying any state, municipal, or county sales and use taxes.

“(f) The Alabama Federation of Women’s Clubs is hereby exempted from paying any state, county or municipal sales or use taxes.

“(g) The National Conference of State Legislatures and the Council of State Governments are hereby exempted from paying any state, county or municipal sales or use taxes.

“(h) All blind vendors associated with the business enterprise program of the division of rehabilitation and crippled children service through the department of education are hereby exempted from paying any state, county or municipal sales or use taxes.

“(i) All vendors who are blind as defined by section 1-1-3, and who are certified by the Rehabilitation and Crippled Children Service, are hereby exempted from paying any state, county or municipal sales or use taxes.

“(j) The Elks Club, B.P.O.E., No. 1887, a corporation, is hereby exempted from paying any state, county or municipal sales or use taxes. Provided, however, that the exemption provided by this subsection shall not extend to any bar or dining room operation conducted by said Elks Club.

“(k) The King’s Ranch, Inc., is hereby exempted from paying any state, county or municipal sales or use taxes.

“(l) The Eye Foundation, Inc., and any of its branches or agencies, heretofore, or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county, or municipal sales or use taxes.

“(m) Any county public hospital association and any of its branches, agencies, lessees or successors organized pursuant to Section 10-3A-1, et seq., of the Code of Alabama 1975, as amended, and which operates or maintains hospitals for counties and for purposes other than for pecuniary gain and not for individual profit, is hereby exempted from paying any state, county or municipal sales and use tax of any nature whatsoever. Any such taxes which were or may be assessed or collected subsequent to December 31, 1985, against any lessee of any county public hospital association organized as herein stated, pursuant to a lease in writing, will be remitted to the entity which paid them; and no action or proceeding against said association or nonprofit corporation may be instituted after such date by the state of Alabama or any county or municipality thereof or any agent or person acting on behalf thereof for the collection or enforcement of any such sales or use tax of any nature whatsoever.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** The provisions of this act are retroactive to December 31, 1985.

Approved May 11, 1989

Time: 5:37 P.M.

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Act No. 89-750

H. 945—Rep. McDowell

## AN ACT

To establish a procedure whereby a Class 5 municipality may adopt a mayor-council form of government; to provide for the election of a mayor and council members, the

method of establishing salaries, certain duties and responsibilities; and to provide for the continuation of laws applicable to said cities.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The governing body of any Class 5 municipality operating under a United State District Court Consent Decree approved by the Court in the case of Tolbert and Petty vs. the City of Bessemer, Civil Action No. 75-297, by a majority vote of the members thereof may adopt an ordinance establishing a mayor-council form of government pursuant to the terms and conditions of this act. Any municipality desiring to adopt a form of government provided for herein shall adopt an ordinance in substantially the following form:

“BE IT ORDAINED BY THE COUNCIL OF THE CITY OF \_\_\_\_\_ AS FOLLOWS:

“Section 1. That pursuant to Act \_\_\_\_\_ of the 1989 Regular Session of the Legislature, the mayor-council form of government pursuant to the United States District Court Decree agreed to by the parties and approved by the Court on the 18th day of October, 1985, in the case of Tolbert and Petty vs. the City of Bessemer, under which the municipality has operated, shall be abandoned on the 1st day of October, 1990.

“Section 2. The form of government as described by Act No. \_\_\_\_\_ of the 1989 Regular Session of the Legislature providing for a mayor-council form of government with the mayor and one council member elected at large and six council members from single member districts, is hereby adopted as the form of government for the City of \_\_\_\_\_, pursuant to all the terms and conditions contained in said act.

“Section 3. This ordinance shall take effect as provided by law, and implemented pursuant to said Act No. \_\_\_\_\_.”

**Section 2.** If said ordinance as hereinabove set out be adopted by the governing body of any municipality to which this act applies, then:

(1) Within 90 days thereafter the governing body shall adopt an ordinance establishing the boundaries of the six council districts herein provided for and shall take such steps as are necessary to comply with the federal Voting Rights Act of 1965, as amended.

(2) The election of the mayor and all the members of the city council shall be held as set by ordinance by the council and quadrennially thereafter and in accordance with the provisions and terms of the general election laws governing mayor-council elections under the general laws of the state of Alabama.

(3) On the first Monday in October, after the election of the mayor and council, the newly elected mayor and council members shall assume office and the terms, powers, duties, responsibilities and emoluments of office of the present mayor and governing body shall end.

(4) The municipality shall thereafter and as provided in this act be governed by a mayor and one council member elected at large and six council members elected from single member districts, which shall have the same powers and duties as other mayor-council municipalities organized under Title II, Code of Alabama 1975, as amended, not inconsistent with this act, and any other powers and duties not inconsistent with this act which may have been theretofore granted to such municipality.

**Section 3.** The mayor and council members elected hereunder shall serve until the first Monday in October, four years after taking office.

**Section 4.** The election and referendum provided for herein shall be conducted, the vote canvassed, and the result declared in the same manner as provided by chapter 46, Title 11, Code of Alabama 1975, as amended, in respect to other municipal elections conducted in any such municipality.

**Section 5.** Whenever there shall be a change in population in any of the districts heretofore established, evidenced by a federal census of population, or by virtue of a substantial change in the corporate limits, there shall be a reapportionment of the council districts in the manner hereinafter provided:

(1) The mayor shall within six months after the publication of each federal census of population for the municipality or within six months after there shall have been any substantial change in the corporate limits of the municipality, file with the council a report containing a recommended plan for reapportionment of the council district boundaries to comply with the following specifications:

a. Each district shall be formed of contiguous and to the extent reasonably possible, compact territory, and its boundary lines shall be the centerlines of streets or other well-defined boundaries;

b. Each district shall contain as nearly as is possible the same population, but not more than five per centum more or less than the average.

(2) The council shall enact a redistricting ordinance within six months after receiving such report. If the council fails to enact the redistricting ordinance within the said six months, the redistricting plan submitted by the mayor shall become effective without enactment by the council, as if it were a duly enacted ordinance.



(3) Such redistricting ordinance shall not apply to any primary or regular or special election held within six months after its becoming effective. No incumbent member of the council shall be deprived of his unexpired term of office because of such redistricting.

**Section 6.** Nothing contained in this act, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the municipality or any office, department, board, or agency existing at the time when this act shall take effect, or any provision of law in force at the time when the mayor-council form of government shall be adopted and not inconsistent with the provisions of this act, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension, officers or employees of the municipality or any office, department, board, or agency thereof.

**Section 7.** All persons holding administrative office at the time the mayor-council form of government is adopted shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department, board, or agency of the municipality by the law of the state shall, if such office, department, board, or agency be abolished by this act, or under its authority, be thereafter exercised and discharged by the office, department, board, or agency designated by the council unless otherwise provided herein.

**Section 8.** Any person holding such an office or position in the civil service of such municipality when the mayor-council form of government shall be adopted shall continue to hold such office in the civil service under the mayor-council form of government and with the same status, rights, and privileges and subject to the same conditions under such applicable civil service system.

**Section 9.** All records, property, and equipment whatsoever of any office, department, or agency or part thereof, all the powers and duties of which are assigned to any other office, department, or agency by this act, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency, or part thereof, are by this act assigned to another office, department, or agency, all records, property, and equipment relating exclusively thereto shall be transferred and delivered to the office, department, or agency to which such powers and duties are so assigned.

**Section 10.** All contracts entered into by the municipality, or for its benefit, prior to the adoption by such municipality of the mayor-council form of government, shall continue in full force and

effect. Public improvements for which legislative steps have been taken under laws existing at the time of the adoption of the mayor-council form of government shall be carried to completion in accordance with the provisions of such existing laws.

**Section 11.** No action or proceeding, civil or criminal, pending at the time of the adoption of the mayor-council form of government, brought by or against the municipality or any office, department, board, or agency or officer thereof, shall be affected or abated by the adoption of the mayor-council form of government or by anything therein contained in this act.

**Section 12.** All laws and parts of laws relating to pension, retirement, and relief funds for any employees of the municipality, as the same may apply and be in effect with respect to the municipality at the time when it shall elect to be governed by the provisions of this act, shall continue in full force and effect, and without interruption or change as to any rights which have been acquired thereunder.

**Section 13.** All laws relating to the school board, library board, airport authority, planning and zoning commission, zoning board of adjustment, park or recreation board, and any municipally owned service enterprise, and any board, authority or agency given such independent status, as the same may apply and be in effect at the time when the municipality shall elect to be governed by the provisions of this act, shall continue in full force and effect and without interruption or change as to the establishment or conduct of any such authority, board or agency, until otherwise provided by law.

**Section 14.** The mayor shall be the chief executive officer, and shall have general supervision and control of all other officers, employees and affairs of the city, which shall include the management of the public utilities, either owned and operated by the city or operated by private corporations under contracts with the city. The general law applicable to mayor-council municipalities notwithstanding, the mayor shall have the power to appoint all officers and employees of the city subject to the rules and regulations of any civil service or merit system that may be applicable to said city. The mayor may remove any person appointed by him subject to the rules and regulations of any civil service or merit system that may be applicable to said city.

**Section 15.** Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office or position by the mayor or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with

the administrative service solely through the mayor and neither the council nor any member thereof may give orders to any subordinates of the mayor, either publicly or privately.

**Section 16.** Upon the request of the mayor, the council may establish not more than two positions of administrative assistants to the mayor and establish the salary for said positions. Once established, the mayor shall appoint a person or persons to hold said position or positions. These positions shall not be subject to the rules and regulations of any civil service or merit system applicable to said city.

**Section 17.** The mayor, at least once a year, shall appoint a certified public accountant or the department of examiners of public accounts to conduct an examination in accordance with generally accepted auditing standards of all books and accounts of the city since the preceding examination and to make a full report thereof in writing, under oath, to be submitted to the council at its first meeting after the completion of such report, and the same shall be spread upon the minutes of the council. For his services, said certified public accountant or the department of examiners of public accounts shall be paid such sum as may be agreed upon.

**Section 18.** The salary of the first mayor and council elected hereunder shall be established by the commission at least six months prior to the mayor and council taking office. Such salary, and the manner in which it is to be paid, shall be established by ordinance of the governing body. The salary of all mayors and council members serving the city after the first mayor and council, shall be established as provided by general law applicable to mayor-council municipalities. Notwithstanding any of the provisions of this act, the mayor and council members shall be reimbursed for approved expenses incurred in the performance of their duties.

**Section 19.** The council shall elect one of its members to serve as president of the council. The president shall preside at meetings of the council and have a vote on all matters coming before the council. The council shall also elect a president pro tem, who shall act as president of the council during the absence or disability of the president.

**Section 20.** The mayor shall be given notice of all council meetings and shall have the privilege of attending the meetings of the council and of taking part in the deliberations thereof. The mayor shall not have the right to vote on any matter that is presented to the council.

**Section 21.** (a) In the case of absences of the mayor from the city or his inability to serve on account of sickness or any other good reason, the president of the council or president pro tem of the

council, in case of absence or disability of the president of the council, shall act as mayor pro tempore with the power and authority of the mayor during such time. In the event of a failure or refusal of the president of the council or the president pro tempore to act, the council may appoint one of its members to act as mayor pro tempore with like effect which appointment shall be entered in the minutes of the council.

(b) In the event of a vacancy from any cause in the office of the mayor, council member-at-large or council members from a district, the council shall call for an election to fill said vacancy which shall be called and held not less than 30 nor more than 60 days from the occurrence of said vacancy. Notice of said election and the time of holding the same shall be given by one publication at least 15 days in advance of the same in one or more newspapers in said city at the expense of the city. The person chosen at said election shall qualify as speedily as possible after election. Upon notice of the vacancy in the office of mayor, the president of the council shall serve as mayor pro tempore with the power and authority of the mayor during such time and until the election of the mayor. This ordinance shall become effective upon its due adoption and publication as required by law.

(c) In the event of a vacancy from any cause in the office of the mayor, council member-at-large or council member from a district and said vacancy shall occur within six months of a regularly scheduled election for the purpose of electing the council members and the mayor, the said vacancy shall be filled by the council in accordance with the laws of the state of Alabama.

**Section 22.** All ordinances and resolutions of the municipality in effect at the time of adoption of the mayor-council form of government herein set up shall continue in effect unless and until changed or repealed by the council.

**Section 23.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 24.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 25.** For all purposes, the provisions of subdivisions (2), (3), and (4) of Section 2 of this act shall become applicable to the municipality at the time when the first council elected under the provisions hereof takes office and qualifies; otherwise, this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:38 P.M.

Act. No. 89-751

H. 999—Rep. Venable

## AN ACT

Relating to Coosa County; amending the Title and Sections 3, 5 and 12 of Act No. 86-239, H. 775 of the Regular Session 1986, (Acts 1986, p. 362) relating to the offices of chairman and associate members of the Coosa County Commission, so as to further provide for the compensation and manner of payment; to provide for the voting status of the judge of probate; to require the commission to authorize travel out of the state only for emergencies and the benefit of the citizens of Coosa County, except for law enforcement traveling on official business or duty; and to provide for the effective operation of the act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title and Sections 3, and 5 of Act No. 86-239, H. 775, Regular Session 1986 (Acts 1986, p. 362), are hereby amended to read as follows:

“Relating to Coosa County; to provide further for the composition of the county commission; to provide that the judge of probate of Coosa County shall serve as a non-voting chairman on said commission; to provide for the election of the five associate commission members from single member districts within Coosa County; to provide for the terms of said commissioners; to provide that the associate members must reside within the boundaries of their district; to prescribe the salaries and duties of the associate commissioners; to prescribe the boundaries of certain districts; to empower the Coosa County Commission to determine the boundary line of certain commission districts; to empower said county commission to reapportion itself at certain times; to provide for the filling of vacancies in the office of associate commissioner; to provide for the employment of a county administrator and to prescribe the duties of the county administrator; to provide for the employment of a county engineer, and to prescribe the duties and responsibilities of such county engineer; to provide for the operation of a road and bridge department on the basis of the county as a unit, without regard to any district or beat lines; to further provide for the status of the judge of probate; and to provide for its effective date and its operation.

“Section 3. The chairman of said county commission shall be the judge of probate of Coosa County, and he shall preside at all meetings of the county commission at which he is present, but he shall not be entitled to a vote on the commission. The judge of probate of Coosa County shall continue to be elected and serve as otherwise provided by the laws of the State of Alabama.

“Section 5. Beginning with the new term in January 1991, associate commissioners shall be paid a salary of \$6,000 per annum

provided that the Coosa County residents shall have passed a constitutional amendment allowing a lower salary than the state-mandated minimum salary for part-time commissioners. If no constitutional amendment is approved, salaries shall be set in accordance with the state laws."

**Section 2.** Section 12 is hereby amended to read as follows:

"Section 12. No elected or appointed county official may travel out-of-state at county expense unless the commission shall by official resolution declare such travel an emergency and necessary for the benefit and well-being of the citizens of Coosa County. However, this provision shall not apply in the case of law enforcement officers traveling in the line of duty."

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as herein otherwise provided. Provided, however, this act shall not become effective if the constitutional amendment, enacted during the current session, authorizing the legislature to change the salary, compensation and method of paying any associate member of the Coosa County Commission is not ratified by the qualified electorate of Coosa County.

Approved May 11, 1989

Time: 5:39 P.M.

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Act No. 89-752

H. 1006—Rep. Turnham

### AN ACT

To amend the state "casual" sales and use taxes levied under Sections 40-23-101 and 40-23-102 of the Code of Alabama 1975, as last amended by Act No. 867, H. 18 of the First Special Session 1988, to include any mobile home purchased other than at wholesale, from any person, firm or corporation which is not a licensed dealer engaged in selling mobile homes; to provide for the collection of said taxes; and to provide for the effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-101 of the Code of Alabama 1975, as last amended by Act No. 867, H. 18 of the First Special Session 1988, is hereby amended as follows:

§40-23-101.

"(a) There is hereby levied and shall be collected as herein provided a sales tax upon every person, firm or corporation purchasing

other than at wholesale within this state, any automotive vehicle, truck trailer, semitrailer or house trailer required to be registered or licensed with the judge of probate of any county in this state from any person, firm or corporation which is not a licensed dealer engaged in selling automotive vehicles, truck trailers, semitrailers or house trailers an amount equal to two percent of the purchase price.

(b) Commencing October 1, 1989, there is hereby levied and shall be collected, as provided for under the provisions of Section 40-23-104(e) of the Code of Alabama 1975, a sales tax in the amount equal to two percent of the purchase price on the sale of any mobile home as defined in Section 40-8-1(b) (7) of the Code of Alabama 1975, as last amended by Act No. 824, H. 234 of the First Special Session 1988, purchased other than at wholesale in this state from any person, firm or corporation which is not a licensed dealer engaged in selling mobile homes."

**Section 2.** Section 40-23-102 of the Code of Alabama 1975, as last amended by Act No. 867, H. 18 of the First Special Session 1988, is hereby amended as follows:

"(a) There is hereby levied and shall be collected as herein provided in lieu of the excise tax levied by subsection (c) of section 40-23-61, an excise or use tax upon every person, firm or corporation purchasing other than at wholesale outside the state any automotive vehicle, truck trailer, semitrailer or house trailer required to be registered or licensed with the judge of probate of any county in this state for use, storage or other consumption within this state there is levied in lieu of the excise tax levied by subsection (c) of section 40-23-61, a tax in an amount equal to two percent of the purchase price.

(b) Commencing October 1, 1989, there is hereby levied and shall be collected, as provided for under the provisions of Section 40-23-104(e) of the Code of Alabama 1975, an excise or use tax in the amount equal to two percent of the purchase price on the storage, use or other consumption in the state of any mobile home as defined in Section 40-8-1(b)(7) of the Code of Alabama 1975, as last amended by Act No. 824, H. 234 of the First Special Session 1988, purchased other than at wholesale outside the state on or after October 1, 1989, for storage, use or other consumption in this state."

**Section 3.** Section 40-23-104 of the Code of Alabama 1975, is hereby amended as follows:

§40-23-104.

"(a) The tax levied by this article shall be collected by the tax collector before the registration of or licensing of any such automotive

vehicle, truck trailer, semitrailer or house trailer by the judge of probate.

(b) The tax collector shall require, as proof of the purchase price of the vehicle or trailer, the presentment of a sworn report by the purchaser reflecting such purchase price on a form to be provided by the department of revenue accompanied by a properly executed bill of sale or other satisfactory evidence prescribed by the department of revenue.

(c) In lieu of the requirements contained in subsection (b) of this section, the purchaser may stipulate to the tax collector that the purchase price of the automotive vehicle, truck trailer, semitrailer or house trailer to be taxed is equivalent to a standard value for the year, make and model established by the department of revenue for the taxable item. The purchase price so stipulated shall be conclusively presumed to be the purchase price of such item for all purposes under this article.

(d) Before the registration of or licensing of any such automotive vehicle, truck trailer, semitrailer or house trailer, the judge of probate shall require proof of payment of the tax levied under this article as he deems to be necessary and proper.

(e) Before the decal, which is provided for by Section 40-7-1 of the Code of Alabama 1975 (as last amended by Act No. 824, H. 234 of the First Special Session 1988), can be issued to evidence payment of the ad valorem tax due on a mobile home in this state, and before any homestead exemption will be granted for a mobile home, payment of the tax levied either under Section 40-23-101(b) or Section 40-23-102(b) must be made to the county tax collecting official of the county in which the mobile home will be initially sited as evidenced by a properly executed bill of sale. If, however, the sales or use tax specified in either Sections 40-23-101(b) or 40-23-102(b) has already been paid prior to the due date of the ad valorem tax on the mobile home, then such proof of payment for the sales or use taxes will be evidenced by a receipt and shall be deemed acceptable by the county tax assessing or collecting official."

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:40 P.M.



Act. No. 89-753

H. 1049—Rep. Harvey

## AN ACT

Relating to Blount County; amending Act No. 79-712, H. 782, 1979 Regular Session, providing for an expense allowance for members of the county board of education, so as to provide further for said expense allowance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 79-712, H. 782, 1979 Regular Session, is hereby amended to read as follows:

“Section 1. In Blount County, the members of the county board of education are hereby granted an additional expense allowance in the amount of \$200.00 per month. Said expense allowance shall be in addition to any and all other salary, compensation and expense allowances provided for by law and shall be paid out of the same funds as are used to pay other compensation of the board members.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:41 P.M.

Act. No. 89-754

H. 1054—Rep. Newman

## AN ACT

Relating to Fayette County; providing for the establishment of a consolidated and unified system of assessment and collection of taxes under the supervision of a county revenue commissioner; prescribing the powers, duties, term of office and compensation of said county revenue commissioner, and providing for his election; abolishing the county offices of tax assessor and tax collector in Fayette County; and providing for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** At the expiration of the terms of office, or if a vacancy occurs in either the office of tax assessor or the office of tax collector of Fayette County before such date, then immediately upon the occurrence of such vacancy there shall be established the office of county revenue commissioner in Fayette County. If such office is established upon the occurrence of a vacancy in either the office of tax assessor or tax collector, then the tax assessor or tax

collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term for which he was elected. A revenue commissioner shall be elected at an election called for that purpose and every six years thereafter. He shall serve for a term of office of six years.

**Section 2.** The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for ad valorem taxation, the collection of such taxes, the keeping of records and the making of reports concerning assessments for and the collection of taxes.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

**Section 4.** Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner in the courthouse and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

**Section 6.** The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of any duty imposed by law on any such officers and hereby transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his office, the county revenue commissioner will receive a minimum salary of \$35,000 per annum, as provided by section 40-6a-2, Code of Alabama 1975, payable in twelve equal monthly installment, with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office. If no action

is taken by the county commission before the county revenue commissioner takes office at each term, his salary will be \$35,000.

**Section 7.** The offices of tax assessor and tax collector of Fayette County are hereby abolished effective on the last day of the term to which they are elected, or on such earlier date, as is prescribed in Section 1 hereof, if a vacancy occurs in either the office of tax assessor or tax collector.

**Section 8.** It is the purpose of this act to conserve revenue and promote the public convenience in Fayette County by consolidating the offices of tax assessor and tax collector into one county office.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Fayette County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, general or primary election held in Fayette County next following final passage of this act. Notice of the election shall be given by the judge of probate of Fayette County, which notice shall be published once a week for three successive weeks before the day of election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law abolishing the offices of tax assessor and tax collector and establishing in lieu thereof the office of revenue commissioner? Yes ( ) No ( ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Fayette County shall certify the results of the election to the secretary of state immediately after the returns have been certified.

**Section 12.** If the office of tax assessor or tax collector should become vacant between the time of ratification of this act by the electors of Fayette County and the expiration of the term of office of either the tax assessor or tax collector, this act shall become effective immediately and the election thereon shall be called within forty-five days of such vacancy.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:42 P.M.

Act No. 89-755

H. 1055—Reps. Logan and Newman

### AN ACT

Relating to Marion County; providing that any monies collected from the additional court costs levied by Act No. 85-933, H. 243, 1985 Second Special Session (Acts 1985, p. 235), and amendment thereto and Act No. 85-934, S. 216, 1985 Second Special Session (Acts 1985, p. 235) and paid to the clerk of the circuit court under the authority of such acts, shall be distributed to the Marion County department of human resources for deposit in a separate fund; and to provide that the interest derived from such monies shall be used for handicapped children in the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any monies collected from the additional court costs levied by Act. No. 85-933, H. 243, 1985 Second Special Session (Acts 1985, p. 235) and amendment thereto, and Act. No. 85-934, S. 216, 1985 Second Special Session (Acts 1985, p. 235) and paid to the clerk of the circuit court under the authority of such acts, shall be distributed to the Marion County department of human resources to be deposited in a separate fund. Interest derived from such fund shall be distributed annually to the Marion County department of human resources to be used for handicapped children in the county from birth to 18 years of age for wheelchairs, lift chairs, artificial limbs or other need of handicapped children determined necessary by the county department of human resources.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:43 P.M.

Act No. 89-756

H. 1074—Rep. Lindsey

## AN ACT

Relating to Cleburne County; providing for the mailing address of the grantees to appear on all conveyances of real property recorded in the probate office of such county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The probate judge of Cleburne County shall not receive for record or permit the recording of any instrument in which the title to real property is conveyed, unless such instrument has endorsed on it a printed or typewritten mailing address of the grantee within the body of the instrument.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:44 P.M.

Act No. 89-757

H. 1075—Rep. Grouby

## AN ACT

Relating to Autauga County; to authorize the Autauga County Board of Health to designate the services rendered by the County Health Department for which a reasonable fee may be charged and to set the appropriate fee for each service. No citizen shall be denied any service because of that person's inability to pay.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Autauga County Board of Health shall designate the services rendered by the County Health Department for which fees may be charged and shall set the fee to be charged for each service. Any fees to be charged under the authority of this act by the County Health Department shall be subject to approval by the respective county commission prior to implementation. The Health Department is hereby authorized to charge and collect such fees. All fees collected shall be in addition to any and all federal, state and local appropriations. Any fees collected shall be processed in accordance with the recommendations of the State Examiners of Public Accounts.

**Section 2.** No person shall be denied any service because of that person's inability to pay. The County Board of Health may establish a sliding fee scale based on one's ability to pay.

**Section 3.** This act shall not apply to nor affect any fees otherwise authorized, set or collected under state or federal law or regulations.

**Section 4.** All fees collected pursuant to this act are hereby appropriated to the respective health department which collected such fees.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:45 P.M.

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Act No. 89-758

H. 555—Rep. Haynes

### AN ACT

To amend Sections 32-13-1, 32-13-2, 32-13-3 and 32-13-4, Code of Alabama 1975, which relate to the removal of abandoned vehicles from privately owned property, so as to provide for notice by publication and certified mail to the owner, secured parties or lienholders of the sale of an abandoned motor vehicle, and to provide for a hearing if the vehicle is abandoned and should be sold.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-13-1, Code of Alabama 1975, is hereby amended to read as follows:

“§32-13-1.

“For the purposes of this chapter, an ‘abandoned motor vehicle’ shall mean a motor vehicle, as defined in section 32-1-1:

“(1) Which has been left by the owner, or some person acting for the owner, with an automobile dealer, repairman or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of 60 days after the time

agreed upon and within 60 days after such vehicle is turned over to such dealer, repairman or wrecker service when no time is agreed upon, or within 60 days after the completion of necessary repairs;

“(2) Which is left unattended on a public street, road or highway or other public property for a period of at least seven days; or left unattended continuously for at least seven (7) days in a business district or a residence district; or if left unattended in a business district that has at least one (1) posted notice in an open and conspicuous place indicating that there is a time limitation on the length of time a motor vehicle may remain parked in said district and said motor vehicle remains unattended for a period of time in excess of that posted on the notice; or left unattended in a business district or residence district that has at least one (1) posted notice indicating that only authorized motor vehicles may park in that district and the owner of said motor vehicle or his agent has not received the required authority prior to leaving said motor vehicle unattended; or left unattended on a private road or driveway without the express or implied permission of the owner or lessee of such driveway or their agent. A posted notice when required by this chapter shall meet the following specifications:

“(a) The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign each twenty-five feet of lot frontage.

“(b) The notice must clearly indicate, in not less than two inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words “Tow Away Zone” must be included on the sign in not less than four inch high letters.

“(c) The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor or person in control of the property has a written contract with a wrecker service.

“(d) The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than four feet above ground level, and be continuously maintained on the property for not less than twenty-four (24) hours prior to the towing or removal of any vehicles.

“(3) Which has been lawfully towed onto the property of another at the written request of a law-enforcement officer and left there for a period of not less than 60 days without anyone having made claim thereto.”

**Section 2.** Section 32-13-2, Code of Alabama 1975, is hereby amended to read as follows:

“§32-13-2.

“(a) Any peace officer who finds a motor vehicle which has been left unattended on a public street, road or highway or other property for a period of at least seven days, shall be authorized to cause such motor vehicle to be removed to the nearest garage or other place of safety.

“(b) Any peace officer who under the provisions of this section causes any motor vehicle to be removed to a garage or other place of safety shall be liable for gross negligence only and any person removing such vehicle or other property at the direction of a peace officer in accordance with the provisions of this section shall have a lien on such motor vehicle for a reasonable fee for such removal and for the storage of such motor vehicle.

“(c) Any peace officer who under the provisions of this section causes the removal of any motor vehicle to a garage or other place of safety shall within five days give written notice of such removal, which notice shall include a complete description of the motor vehicle serial number and license number thereof, provided such information is available, to both the secretary of state, state of Alabama and the department of public safety, state of Alabama.

“(d) The owner or lessee of real property or their agent upon which an abandoned motor vehicle as defined in Section 32-13-1 has become abandoned shall be authorized to cause such abandoned motor vehicle to be removed to a secure place. Any owner or lessee of such real property or their agent who shall cause such abandoned motor vehicle to be removed from their real property shall, within twenty-four (24) hours of such removal, give written notice to the county or municipal law enforcement agency in whose jurisdiction the abandoned motor vehicle was situated. Any person or corporation removing such vehicle or other property at the direction of the owner or lessee of real property or their agent in accordance with the provisions of this section have a lien on such motor vehicle for a reasonable fee for such removal and for storage of such motor vehicle.”

**Section 3.** Section 32-13-3, Code of Alabama 1975, is hereby amended to read as follows:

“§32-13-3.

“Any automobile dealer, wrecker service or repair service owner, or any person or firm on whose property a motor vehicle is lawfully towed at the written request of a law-enforcement officer or the owner or lessee of real property or their agent upon which an



abandoned motor vehicle as defined in Section 32-13-1 has become abandoned, and who shall have an abandoned motor vehicle on his property, may sell the same at public auction. Notice of the date and place of the sale and a description of the vehicle to be sold shall be given by a newspaper publication at least 10 days before the date of the sale in a newspaper of general circulation in the county in which the sale is to be held. In counties in which no newspaper is published, notice shall be given by posting such notice in a conspicuous place at the courthouse. Upon payment of the sales price, the purchaser shall be entitled to and the person making such sale shall issue to him a bill of sale to such abandoned motor vehicle, free and clear of all liens and encumbrances."

Section 32-13-4, Code of Alabama 1975, is hereby amended to read as follows:

"§32-13-4.

"(a) Any automobile dealer, wrecker service or repair service owner, or any person or firm on whose property a motor vehicle is lawfully towed at the written request of a law-enforcement officer, the owner or lessee of real property or his agent upon which an abandoned motor vehicle as defined in Section 32-13-1 has become abandoned, shall give written notice to the owner, secured parties of record, and known lienholders, if any, at least 30 days prior to the date of the sale of the motor vehicle advising of (1) the complete description of the vehicle and the date and place the vehicle was found or taken into possession, (2) the approximate amount owed for the cost of repair, towing and storage, (3) the location of storage of the vehicle, (4) the time and place that a sale of the vehicle will be held, (5) the right of the owner, secured parties or lienholders to contest the right to sell such vehicle by the filing within 10 days before the date of the sale of the vehicle of an application for hearing to be conducted before the judge of the district court or circuit court of the county in which the sale is to be held. The application for hearing shall be on such a form as may be prescribed by the department of court management of the state of Alabama. The notice required by this section shall be deemed to be given when sent by certified mail, postage prepaid, to the address of the owner, secured party of record, and known lienholder shown on any public filing evidencing such ownership, security interest, or lien; or, if none, to any such address ascertained by reasonable effort.

"(b) If the name and address of the owner, secured parties or lienholders of the vehicle are unknown or cannot be reasonably ascertained, then the notice required herein shall be given by publication once a week for two successive weeks in a newspaper of general circulation in the county in which the sale is to be held. In counties in which no newspaper is published, notice shall be given

by posting such notice in a conspicuous place at the courthouse. The first publication or posting, as the case may be, shall be at least 30 days before the date of sale.

“(c) If no application for hearing is made by the owner, secured parties, or lienholders, the vehicle may be sold at the time and place designated in the notice of sale. If application for hearing is made by the owner, secured parties, or lienholders, then all such persons shall be joined as parties and the judge of the district court or circuit court shall conduct a hearing to determine if the vehicle is an abandoned vehicle as defined by this chapter and should be sold in the manner prescribed herein. The vehicle shall not be sold pending the decision by the district or circuit court judge. If the judge shall determine that the vehicle is abandoned and should be sold, the vehicle may be sold after notice of the date and place of the sale is given by newspaper publication as prescribed in section 32-13-3. If the hearing is conducted by the judge of the district court, any person aggrieved by the decision rendered by the judge of the district court may appeal to the circuit court of the judicial circuit wherein the hearing was held by filing notice of appeal in the time and in the manner prescribed by law.”

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:46 P.M.

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Act No. 89-759

H. 577—Reps. Butler, Freeman  
and Sanderford

### AN ACT

Relating to Madison County; to authorize the county commission to designate an official county historian and appropriate an honorarium for same.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Madison County commission may appoint a county historian and appropriate county funds for the purpose of paying such designated county historian an honorarium, not to exceed ten thousand dollars.

**Section 2.** The county historian shall maintain a chronological history of local government within Madison County.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:47 P.M.

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Act No. 89-760

H. 834—Reps. Newton (D), Gray  
and Spratt

### AN ACT

Relating to Jefferson County; amending Section 6 of Act No. 547, H. 1176, 1965 Regular Session, relating to the powers of the civic center authority established pursuant to said act, so as to specify in a more general and comprehensive manner the types of facilities that said authority may own, operate and manage

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 6 of Act No. 547, H. 1176, 1965 Regular Session, as amended, is hereby amended to read as follows:

“Section 6. The Authority shall be authorized to construct, maintain, control, operate and manage a civic center in the county seat. The said civic center shall not be established in any area in the county seat unless such area has been first approved for the establishment of the civic center by a resolution adopted by the governing body of the County and a resolution adopted by the governing body of the county seat; and after the area of the civic center has been established, as aforesaid, the area shall not be extended unless the extension thereof has been first approved by a resolution adopted by the governing body of the County and a resolution adopted by the governing body of the county seat. The Authority shall be authorized to construct, maintain, control, own, operate and manage any or all facilities useful or necessary to provide for public meetings, athletic contests, concerts, theatrical performances, trade shows, exhibitions or any other events which contribute to the cultural betterment of the community or which entertain or educate the persons attending such events. The facilities which the Authority may construct, maintain, control, own, operate and manage

shall include, without limitation, all or any of the following to be situated in or near the civic center: buildings to provide offices to be used by the State of Alabama or by any agency, subdivision or public corporation thereof or by the County or by one or more municipalities thereof for any municipal purpose otherwise authorized by law and building to house or accommodate public facilities of the State of Alabama or of any agency, subdivision or public corporation thereof or of the County or of any one or more of said municipalities for any municipal purpose otherwise authorized by law; parking facilities, streets, boulevards, walkways, parkways and parks; monuments, statues and other structures beautifying the civic center; community houses or meeting houses and auditoriums; arenas, convention halls and convention sites; music halls, theatres, and museums; hotels or motels of sufficient size and quality to accommodate persons attending conventions, restaurants, meeting rooms and administrative facilities; places of recreation; and art exhibits and other exhibits for the advancement of the humanities and the cultural development and edification of the citizens of the County and of the municipalities located therein.

“The Authority shall have the power (a) to sue and be sued; (b) to acquire property and rights and interests in property by gift, lease or purchase, or by the exercise of eminent domain; (c) to have a seal and alter the same at pleasure; (d) to appoint officers, agents, employees and attorneys, and to fix their compensation; (e) to make bylaws for the management and regulation of its affairs; (f) to make contracts, and to execute all instruments necessary or convenient to lease or purchase and own real or personal property to be used for the furtherance of the purposes for the accomplishment of which said Authority is created; (g) to arrange, sponsor and conduct programs and exhibits in the civic center for the advancement of the cultural, civic and scientific interests and welfare of the citizens of the County and of the municipalities thereof and for the advancement of the humanities; (h) to promote, sponsor and operate in the civic center exhibitions and recreational activities; (i) to charge fees for admission; (j) to lease or sublease to the State of Alabama or any agency, political corporation or subdivision thereof, or to the County or to any municipality of the County, or to other persons any property owned or leased by or under the control of the Authority; (k) to purchase or lease real property and rights of easements therein necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue; (l) to accept or receive gifts, bequests and devises; (m) to sell, convey, lease, mortgage, deed in trust, contract for the management of, or otherwise deal with all or any part of the property, both real and personal, of the Authority, in the furtherance of the purposes for the accomplishment of which said Authority is created; and (n) to do all things

necessary or convenient to carry out the powers expressly given herein.

"For the aforesaid purposes and for no other purposes, the Authority shall be authorized to use and apply the proceeds of any taxes which the Legislature provides shall be payable to the Authority.

"Subject to the conditions stated in the sentence next following, the County and each municipality thereof are authorized, but not required, to lease, sell, donate or otherwise convey to the Authority, real or personal property, including park properties, without authorization by election of the qualified voters of the County or of the municipality; and subject to the conditions stated in the sentence next following, the County and each municipality thereof are authorized, but not required, to appropriate public funds of the County or of the municipality, as the case may be, to the Authority, to be used by the Authority for purposes hereinabove enumerated. The County shall not lease, sell, donate or convey any property to the Authority, or appropriate any money to the Authority, unless the governing body of the County has determined that such lease, sale, donation, conveyance or appropriation will benefit the people of the County to such an extent as to fully warrant and justify the lease, sale, donation, conveyance or appropriation; and no municipality shall lease, sell, donate or convey any property to the Authority or appropriate any money to the Authority unless the governing body of such municipality has determined that such lease, sale, donation, conveyance or appropriation will benefit the people of the municipality to such an extent as to fully warrant and justify the lease, sale, donation, conveyance or appropriation.

"The Authority shall be authorized to invest any of its funds not needed to meet disbursements, in bonds or obligations of the United States of America or to deposit such funds in any bank or building and loan association, provided such deposit is fully insured by a federal corporation or agency of the Federal Government insuring deposits in financial institutions or secured by a deposit of bonds or obligations of the United States of America.

"This act shall not be construed to limit the right, power or authority of any municipality to operate facilities similar to the facilities provided for by this act. Without limiting the generality of the next foregoing sentence, it is expressly provided that this act shall not in any way affect any auditorium, art museum, or other facility presently owned or hereafter acquired by any municipality, whether situated in the civic center or elsewhere."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:48 P.M.

Act No. 89-761

H. 858—Rep. Drake

## AN ACT

Relating to Morgan County, providing further for expense allowances for the chairman and associate commissioners of the county commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Morgan County, the chairman of the county commission is hereby entitled to receive an expense allowance in the amount of \$7,500.00 per year and associate member of the county commission is hereby entitled to receive an expense allowance in the amount of \$5,000.00 per year. The expense allowances provided by this act shall be in addition to any and all other compensation and expense allowances heretofore provided by law and shall be payable in equal monthly installments out of the county general fund.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:49 P.M.

Act No. 89-762

H. 869—Rep. Hogan

## AN ACT

Relating to Walker County; to amend Section 3 of Act No. 1067, S. 938 of the 1973 Regular Session (Acts 1973, p. 1802), as amended, relating to the county commission, so as to provide further for the meetings of said commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act No. 1067, S. 938 of the 1973 Regular Session (Acts 1973, p. 1802), as amended, is hereby amended to read as follows:

“Section 3. The governing body of Walker County established by this act shall perform the same functions, exercise the same jurisdiction, authority and powers and perform the same duties prescribed by law for the governing body of Walker County when this act becomes effective, specifically including those duties enumerated in said Act No. 410 of the 1966 Special Session and those specified in Act. No. 118 of the 1957 Regular Session, as such acts have been

amended or supplemented. The president and associate members of the Walker County Commission, respectively, shall have and exercise the same powers, rights and authority, fulfill the same responsibilities and perform the same duties as those prescribed by law when this act becomes effective for the chairman and associate members of the county governing body of Walker County, including specifically those powers, duties and authority prescribed in said Act No. 410 of the 1966 Special Session and No. 118 of the Regular Session of 1957, as such acts have been amended or supplemented. In addition thereto the commission shall meet twice a month on the first Monday of each month at 9:30 a.m. and on the third Monday each month at 6:30 p.m. in the Walker County Commission Meeting Room."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:50 P.M.

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Act No. 89-763

H. 892—Rep. Hogan

### AN ACT

Relating to Walker County; to provide monies to the Juvenile Court Advisory Committee Fund in order to finance any group homes, detention facility, shelter care facility or Court, Juvenile Court or Municipal Courts of Walker County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law whether special, local or general to the contrary notwithstanding, in Walker County, in addition to all other costs and charges in any criminal case or misdemeanor case, whose jurisdiction is in the District Court, Circuit Court or Juvenile Court, specifically including all traffic violations, an additional fee of Six and No/100 Dollars (\$6.00) shall be charged and collected by the Clerk of any such Court. The monies derived from the charges herein prescribed shall be remitted to a fund designated "the Juvenile Court Advisory Committee Fund" in the County Treasurer to be used to finance any group home, detention facility, shelter care facility, or provide for needs of any child in the custody of the Juvenile Court or the Department of Human Resources. Such funds shall be paid from the County treasurer to the Committee in the same manner as other funds are payable to agencies of the County. The Juvenile Court Advisory Committee is hereby authorized to direct expenditures of said funds to carry out the provisions and the purposes of this act.

**Section 2.** Any law, whether special, local or general, in contrary notwithstanding, in Walker County, in addition to all other costs and charges in any misdemeanor case, whose jurisdiction is in a Municipal Court located in Walker County, Alabama, an additional fee of \$10.00 shall be charged and collected by the Clerk of any such Court. The monies derived from the charges herein prescribed shall be remitted to a fund designated "the Juvenile Court Advisory Committee Fund" in the County Treasurer to be used to finance any group home, detention facility, shelter care facility, or provide for the needs of any child in the custody of the Juvenile Court or the Department of Human Resources. Such funds shall be paid from the County Treasurer to the Committee in the same manner as other funds are payable to the agencies of the County. The Juvenile Court Advisory committee is hereby authorized to direct expenditures of said funds to carry out the provisions and the purposes of this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:51 P.M.

Act No. 89-764

H. 910—Reps. Layson and Newman

### AN ACT

Relating to the 24th judicial circuit; amending Section 1 of Act No. 86-691, H. 123, of the First Special Session of 1986 (Acts 1st Special Session 1986, p. 96), which provides a monthly expense allowance for the district attorney, so as to remove the restriction on such allowance to certain travel expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 86-691, H. 123, of the First Special Session of 1986 (Acts 1st Special Session 1986, p. 96), is hereby amended to read as follows:

"Section 1. The district attorney of the 24th judicial circuit shall receive a \$500.00 per month expense allowance to be paid by the district attorney's funds in the two counties of the circuit which do not contribute to the expense allowance of the presiding judge under Act. No. 86-553, S. 641, 1986 Regular Session (Acts 1986, p. 1127). One-half of the district attorney's expense allowance shall be



paid each of the two counties. Said expense allowance shall be in addition to all other expense allowances, salary or other compensation presently authorized."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:52 P.M.

Act No. 89-765

H. 922—Reps. McClain and White (G)

### AN ACT

Relating to Jefferson County; to further amend Section 19 of an act designated as Act No. 248 of the Regular Session of the Legislature of Alabama of 1945, approved July 6, 1945 (General Acts of the Legislature of Alabama of 1945, pp. 376-400), as heretofore amended, relating to creating and establishing in counties having a population of 400,000 or more, according to the last or any future federal census, a countywide civil service system; to provide for leaves of absence and vacation for permanent employees holding full-time positions under jurisdiction of this act at the option of the appointing authority, and to provide for related matters.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 19 of Act No. 248 of the Legislature of Alabama of 1945 (General Acts of 1945, pp. 376-400), as amended, is hereby further amended to read as follows:

"Section 19. Leave of Absence. All permanent employees who have held regular full-time positions under the jurisdiction of this subdivision for one year and less than twelve (12) years, shall be allowed an annual vacation with pay at the rate of one work day per month of service not to exceed twelve (12) work days vacation; regular full-time employees with twelve (12) years to twenty-five (25) years full-time service shall be allowed an annual vacation with pay at the rate of one and one-half (1 1/2) work days per month of service not to exceed (18) days vacation per year; and regular full-time employees with twenty-five (25) years service or more shall be allowed two (2) work days for each month of service not to exceed twenty-four (24) days vacation with pay per year. Such vacation allowance shall be cumulative, not to exceed forty (40) work days. For the purpose of computing vacation allowance sick leave, each period of seven days, excluding holidays, shall be considered as containing five (5) work days, irrespective of the number of days the employee would normally be on duty. In computing vacation for any person hereunder, in addition to the period for which such person has been employed

by the county or city for which he works at the time of the computation, there shall be included the following periods of employment: (1) the period such person worked at the county courthouse, or any branch thereof, while employed by the state or any agency or board of the state, provided that while such person was so employed his position with the state, or state agency or board, was made subject to the countywide civil service law through the adoption or amendment of this or any previous act establishing a countywide civil service system; and (2) the period during which such person worked at the county courthouse, or any branch thereof, while employed by the state or any agency or board of the state provided his work and duties for the state, or the state agency or board were confined within the territorial limits of the county, and provided further that his employment with the county or with some municipality thereof commenced simultaneously with the cessation of his employment by the state or by the state agency or board. The time for such vacation shall be determined by the appointing authority except that the employee, if a vacation has not been allowed him during the calendar year, may demand that he be given a vacation not exceeding twelve work days. An appointing authority shall not require an employee to forfeit his vacation allowance as punishment for improper behavior, in lieu of imposing upon such employee a suspension without pay as provided in Section 22 of the Act. Employees who resign in good standing or who are separated from the service without fault or delinquency on their part shall be allowed credit for vacation earned. Any employee who is dismissed for cause shall forfeit all vacation allowances. The rules and regulations shall contain provisions for granting permanent employees sick leave with pay and for leave without pay, consistent with progressive personnel practice; provided however, that any permanent employee shall, upon retirement or termination in good standing after five (5) years of service, be entitled to receive payment for fifty percent (50%) of his accrued and unused sick leave at the time of his retirement or termination and all such payments shall be made at the same rate as his regular pay. At the time of said retirement or termination said payment shall not exceed fifty percent (50%) of sixty (60) days.

Provided, further, that it shall be optional with each appointing authority whether such provisions shall be applicable to its employees."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:53 P.M.

Act No. 89-766

H. 931—Rep. Willis

## AN ACT

Relating to Calhoun County, Alabama, to allow, in addition to the uses now otherwise allowed, the use of funds collected or obtained pursuant to the provisions of Title 11, Subtitle 3, Chapter 98, Code of Alabama 1975, by communications districts in said county, for the purchasing of road and street signs necessary for roads and streets which are renamed in order to establish E 911 service; due to the local needs of Calhoun County not having been otherwise provided for by other legislation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply only to Calhoun County.

**Section 2.** In order to establish effective E 911 service in Calhoun County, it is necessary for various streets and roads to be renamed and for new street and road signs to be purchased and erected such that those providing emergency services may be able to quickly identify and find the location where emergency services are required. Funds to provide new street and road signs are not available and have not been provided for by other legislation. Without these funds the establishment of an effective E 911 service in the communications districts in Calhoun County will not be possible. This act is to provide for this local need that exists in Calhoun County such that an effective E 911 service may be established in the communications districts of that county.

**Section 3.** Funds collected or obtained pursuant to the provisions of Title 11, Subtitle 3, Chapter 98, Code of Alabama 1975, by communications districts in Calhoun County may be used to purchase road and street signs necessary for roads and streets which are renamed in order to establish E 911 service in the communications districts in Calhoun County.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** It is the intention of the Legislature that the provisions of this act be interpreted to allow an additional use of funds collected or obtained pursuant to the provisions of Title 11, Subtitle 3, Chapter 98, Code of Alabama 1975, in Calhoun County as herein provided.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:53 P.M.

Act No. 89-767

H. 986—Rep. Lindsey

## AN ACT

Relating to Cherokee County, to alter, rearrange and extend the boundary lines and corporate limits of the Town of Leesburg, in Cherokee County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the Town of Leesburg, in Cherokee County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of said Town, all territory now within such corporate limits, and also other territories in Cherokee County, Alabama, described as follows:

### TRACT ONE

All that part of the West Half of the Northwest Quarter of Section 12, Township 10 South, Range 8 East, that is embraced within the confines of Holman Subdivision as the same appears of record in Plat Book 5 at page 31 in the Probate Office of Cherokee County, Alabama.

### TRACT TWO

All that part of Fraction "B", Section 12, Township 10, Range 8 East as follows: Beginning on Section line between Sections 11 and 12 at point where same crosses the Leesburg-Cedar Bluff Public Road; thence North along Section line 10.9 chains; thence East 5.6 chains to said Leesburg-Cedar Bluff Public Road; thence Southwest along said road to the point of beginning, containing about 4.5 acres, more or less.

The lands described in Tracts One and Two lie and are contiguous and adjacent to the present boundary lines of the Town of Leesburg, Alabama.

### EXCEPTIONS AND RESERVATIONS

There is reserved and excepted from the lands described in Tract One and Two, any portion of said lands which may lie up to and

below that certain datum plane of 565 feet above mean sea level as established by the United States Coast and Geodetic Survey as adjusted in January 1955.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:54 P.M.

Act No. 89-768

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H.J.R. 479—Reps. Blakeney, Adams, Beasley, Beers, Biddle, Black, Blake, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Lindsey, Logan, Marietta, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Moon, Newman, Newton (C), Newton (D), Parker, Payne, Penry, Perdue, Petelos, Poole, Rains, Richardson, Rogers, Sanderford, Seibels, Slaughter, Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White (F),

White (G), White (L), Williams,  
Willis, Wright and Zoghby

### HOUSE JOINT RESOLUTION

COMMENDING THE MACMILLAN BLOEDEL PULP AND PAPER EMPLOYEES ON THEIR OUTSTANDING SAFETY RECORD.

WHEREAS, employees in the Pulp and Paper Division of MacMillan Bloedel have recorded another safety milestone with the completion of two million manhours without a lost-time accident, thereby performing their jobs without a serious workplace injury for more than eighteen months; and

WHEREAS, reaching the two million hours safety goal is a rare achievement in the pulp and paper industry and, for MacMillan Bloedel, the record marks the greatest safety accomplishment in the Pulp and Paper Division since the company began operations at the Pine Hill facility in 1967; and

WHEREAS, through outstanding team accomplishment, the MacMillan Bloedel employees have indeed evidenced their dedication to making safety a top priority in the workplace, and their success in establishing safe work habits and a positive attitude is reflected in their recent achievement of two million manhours without a lost-time accident; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate the MacMillan Bloedel Inc., Pulp and Paper Employees on their milestone safety record of two million hours without serious injury.

BE IT FURTHER RESOLVED, That a copy of this resolution of sincere praise be forwarded to MacMillan Bloedel president, Mr. Wyatt Shorter.

Approved May 11, 1989

Time: 5:55 P.M.

Act No. 89-769

H.J.R. 408—Reps. White (L) and Venable

### HOUSE JOINT RESOLUTION

NAMING A PORTION OF ALABAMA HIGHWAY 63, IN TALLAPOOSA AND ELMORE COUNTIES, "THE CHILDREN'S HIGHWAY."

WHEREAS, "Our Children's Home," a non-profit organization, is in the process of constructing a children's home facility for the purpose of operating and maintaining a home for dependent, neglected or abused children; and

WHEREAS, to be located on property donated by the board of directors of Russell Lands, Inc., and with an initial financial commitment by the family of Adelia McConnell Russell, "Our Children's Home" will be operated by representatives of the Russell Lands board, the Russell Foundation and the community; and

WHEREAS, the "Our Home" facilities, to be located on Lake Martin in East Central Alabama, will initially serve its resident children in group homes and, under the supervision of houseparents, the children will be given security, love, discipline, understanding and support; and

WHEREAS, further, "Our Children's Home" program is designed to insure a balance of work and recreation, including the opportunity for non-denominational worship, and for educational instruction to be provided in the public schools of the Alexander City School System; and

WHEREAS, in commendation and praise of the worthy purpose of "Our Children's Home," it is both fitting and proper that it be appropriately recognized, and that the highway leading to the facility be designated in a manner easily identified with the home; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate that portion of Alabama Highway 63, beginning at mile marker 26.23 south of Alexander City in Tallapoosa County and continuing south to mile marker 12.56 at the point of intersection with Highway 229 in Elmore County, as "Our Children's Highway," and by which name it shall henceforth and forever be known.

BE IT FURTHER RESOLVED, That the proper officials are herein authorized to erect and maintain appropriate signs and markers so designating said highway portion as "Our Children's Highway."

Approved May 11, 1989

Time: 5:56 P.M.

Act No. 89-770

H.J.R. 442—Reps. Venable, Mikell  
and Poole

#### HOUSE JOINT RESOLUTION

URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO INITIATE APPROPRIATE MEASURES TO

**IMPEDE RIVER EROSION AT FORT TOULOUSE/JACKSON PARK AND AT MOUNDVILLE STATE PARK.**

WHEREAS, Fort Toulouse/Jackson Park is a National Historic Landmark containing the archaeological remains of 8000 years of aboriginal occupation, two periods of French wilderness fortifications (Fort Toulouse 1717 and Fort Toulouse 1751) and an early American fortification (Fort Jackson 1813), and is extremely significant to the State of Alabama and the nation; and

WHEREAS, Moundville State Park is a National Historic Landmark and is the largest Mississippian mound complex in the Southeastern United States and also is extremely significant to the State of Alabama and the nation; and

WHEREAS, archaeological and recreational sites at Fort Toulouse/Jackson Park and at Moundville State Park have been damaged by severe river bank erosion and are in danger of being destroyed by unchecked erosion; and

WHEREAS, the Alabama delegation has been instrumental in assisting the United States Army Corps of Engineers in developing solutions to the erosion problem at the parks, and in appropriating funds to conduct the erosion control projects; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby encourage the United States Army Corps of Engineers to expend funds already appropriated for the purpose and to initiate the necessary measures to impede the river erosion at both Fort Toulouse/Jackson Park and at Moundville State Park.

**BE IT FURTHER RESOLVED,** That copies of this resolution be forwarded forthwith to the United States Army Corps of Engineers and to the Alabama Congressional Delegation in Washington, D. C.

Approved May 11, 1989

Time: 5:57 P.M.

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Act No. 89-771

H.J.R. 476—Reps. Carothers, Beasley  
and Mathis

**HOUSE JOINT RESOLUTION**

**CONGRATULATING JAMES LOFTIN, DOTHAN, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.**



WHEREAS, James Loftin, a resident of Dothan, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, James Loftin, is an active member of Saint Columba Parish, Dothan, Alabama, and he has served in many positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir James Loftin of Dothan, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir James Loftin, Dothan, Alabama, by the Clerk of the House, so that he and his family may know of our high esteem and deep appreciation.

Approved May 11, 1989

Time: 5:58 P.M.

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Act No. 89-772

H.J.R. 477—Reps. Carothers, Beasley  
and Mathis

### HOUSE JOINT RESOLUTION

CONGRATULATING ROBERT A. HEDSTROM, DOTHAN, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Robert A. Hedstrom, a resident of Dothan, Alabama, recently was recognized, for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Robert A. Hedstrom, is an active member of Saint Columba Parish, Dothan, Alabama, and he has served in many

positions in organizations and boards of his Church, and his life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Robert A. Hedstrom of Dothan, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Robert A. Hedstrom, Dothan, Alabama, by the Clerk of the House, so that he and his family may know of our high esteem and deep appreciation.

Approved May 11, 1989

Time: 5:59 P.M.

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Act No. 89-773

H.J.R. 480—Rep. Knight

### HOUSE JOINT RESOLUTION

RECOGNIZING THE NOTABLE RECORD OF ACHIEVEMENT OF THE ALABAMA JOB TRAINING COORDINATING COUNCIL AND THE EMPLOYMENT AND TRAINING DIVISION OF THE ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS.

WHEREAS, the Governor has duly appointed and established the Alabama Job Training Coordinating Council pursuant to Section 122(a)(2) of the Job Training Partnership Act; and

WHEREAS, this Council is charged with performing the various functions set forth in Section 122(b) of the Job Training Partnership Act and, in so performing, provides the Governor with recommendations pertaining to conduct of employment and training activities operated under the Job Training Partnership Act; and

WHEREAS, the Employment and Training Division of the Alabama Department of Economic and Community Affairs has ably provided for Council staff support and implementation of plans and programs specified under the Job Training Partnership Act; and

WHEREAS, this coordinated effort between the Council and the Employment and Training Division has resulted in thousands of economically-disadvantaged Alabamians being placed in jobs and the presentation of both youth and adults with new education and training opportunities, with additional educational and training benefits being

provided to the elderly, the handicapped, school dropouts and other individuals; and

WHEREAS, the Council, operating under authority of Section 122(b)(8) of the Job Training Partnership Act and to ensure that coordination among both federally and state-funded employment and training programs takes place, annually solicits information from a number of state agencies regarding the nature and scope of employment and training or related programs they directly administer or otherwise promulgate; and

WHEREAS, the high degree of success realized by those Job Training Partnership Act programs administered and operated in full consultation with the Council, as recognized numerous times by the U. S. Department of Labor and the National Alliance of Business, is illustrative of the Council's extraordinary performance in providing sound and effective leadership towards the goal of furthering the fuller development of human capital and economic resources in Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Job Training Coordinating Council and the Employment and Training Division of the Alabama Department of Economic and Community Affairs, having compiled a notable record of achievement in the advancement of Alabama employment and training programs operated under the Job Training Partnership Act, are hereby recognized and most highly commended for meritorious service to the state.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to Governor Guy Hunt, to the Chairman of the Alabama Council on Vocational and Technical Education and to the Chairman of the Alabama Job Training Coordinating Council.

Approved May 11, 1989

Time: 6:00 P.M.

Act No. 89-774

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H.J.R. 481—Reps. Bugg, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow,

Curry, Davis, Dillard, Drake,  
 Escott, Flowers, Ford, Frazier,  
 Freeman, Fuller, Gaston,  
 Goodwin, Gray, Grayson,  
 Grouby, Hall, Hamilton,  
 Hammett, Harper, Harvey,  
 Haynes, Headley,  
 Higginbotham, Hill, Hogan,  
 Holley, Holmes, Hooper,  
 Johnson (RG),  
 Johnson (RW), Kennedy,  
 Knight, Kvalheim, Laird,  
 Layson, Lindsey, Logan,  
 Marietta, Marks, Mathis,  
 McClain, McDowell, McKee,  
 McMillan, Melton, Mikell,  
 Moon, Newman, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos, Poole,  
 Rains, Richardson, Rogers,  
 Sanderford, Seibels,  
 Slaughter, Spratt, Starkey,  
 Thomas, Turner, Turnham,  
 Venable, Walker, Warren,  
 White (F), White (G),  
 White (L), Williams, Willis,  
 Wright and Zoghby

## HOUSE JOINT RESOLUTION

COMMENDING LARRY ROSE FOR OUTSTANDING PERFORMANCE FOR THE UNIVERSITY OF ALABAMA'S FOOTBALL TEAM 1985-1988.

WHEREAS, Larry Rose of Gadsden will long be remembered by Crimson Tide fans as one of Alabama's best all-time offensive linemen; and

WHEREAS, commencing with the 1985 season opener against Georgia his freshman year, Larry Rose started 48 games during his career, missing only two games in 1986 due to a knee injury; and

WHEREAS, in 1984 he was recruited out of Emma Sansom High School as the No. 1 player in the state and quickly validated that assessment by being named to the Football News Freshman All-American Team in 1985; and

WHEREAS, Larry Rose was a second team All-American pick as a junior in 1987 and was a unanimous All-SEC, as well as a first

team All-American on the World Almanac team as a senior in 1988; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby commend Larry Rose for his outstanding football career at the University of Alabama and we wish for him continued success in his future endeavors.

RESOLVED FURTHER, That a copy of this resolution be sent to Larry Rose and to the Sports Information Office at the University of Alabama.

Approved May 11, 1989

Time: 6:01 P.M.

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Act No. 89-775

H.J.R. 486—Rep. Blake

### HOUSE JOINT RESOLUTION

COMMENDING JEFFREY WATSON OF PELL CITY HIGH SCHOOL FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Legislature of Alabama, in highest honor and esteem, congratulates Jeffrey Watson of Pell City High School, as an overall winner of the prestigious Bryant Student Athlete Achievement Award; and

WHEREAS, cited as a "student-athlete who will exemplify by his individual efforts the dedication and commitment required to be the best that he can be," Jeffrey Watson earned a \$1,000 Scholarship as one of six Class 5A finalists and an additional \$2,000 scholarship as the recipient of the Achievement Award; and

WHEREAS, Jeffrey, who has a 3.48 grade-point academic average, plays linebacker for the Pell City High School football team, is a member of the school track team and is active in several school organizations; and

WHEREAS, also a consideration of the award, was Jeffrey's supportive efforts at home and his help in easing the family's hardships due to the grave illness of his stepmother; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding accomplishment as a student athlete, and in admiration of his mature and responsible efforts on behalf of his family, we

hereby most highly commend Jeffrey Watson of Pell City High School, to whom a copy of this resolution of sincere praise shall be presented.

Approved May 11, 1989

Time: 6:02 P.M.

Act No. 89-776

H.J.R. 487—Reps. Butler, Dillard  
and Marks

### HOUSE JOINT RESOLUTION

COMMENDING DARYL L. SMITH OF MOULTON, ALABAMA, FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, in consensus of highest commendation, the Alabama Legislature notes the numerous and notable accomplishments of Daryl L. Smith of Moulton, Alabama; and

WHEREAS, Mr. Smith, as a young child, developed a rare disease known as dermatomyositis which is a malfunction of the auto-immune system, the disease went away when he was seventeen, but the consequences remained, leaving him totally dependent upon his parents; and

WHEREAS, at the age of eighteen, he listened to a class in amateur radio theory on educational television and with assistance, took a test and received his ham radio license; and

WHEREAS, at the age of twenty-seven, he enrolled in a local community college offering a political science course by newspaper with the assistance of Jim Burr; and

WHEREAS, with the aid of the Nu-Life System, a hardware-intensive environmental central system that empowered Mr. Smith to operate a speaker phone, tape recorder, television and other electronic devices by moving one finger a fraction of an inch, Mr. Smith graduated in 1978, summa cum laude from college with an Associate's Degree in General Education, from the University of Alabama in Birmingham with a degree in Psychology; and earned a Masters degree in Counseling Psychology from Alabama A&M University in 1985, becoming the first person in the United States to complete his education by long distance telephone while confined to his bed; and

WHEREAS, he realized that helping others with severe handicaps was the ultimate aim of his educational efforts and was offered a part-time job at Huntsville Hospital doing a patient satisfaction

telephone survey and remains employed far below his educational training level; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby most highly commend Mr. Daryl L. Smith, for his pioneer spirit and dedication to helping the severely disabled by offering hope and overcoming such limitations, we wish him more success and commend him for being such a fine example to others and a challenge to all of us.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Daryl L. Smith with our very best wishes for the future.

Approved May 11, 1989

Time: 6:03 P.M.

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Act No. 89-777

H.J.R. 488—Rep. McKee

### HOUSE JOINT RESOLUTION

COMMENDING AGAPE OF CENTRAL ALABAMA FOR OUTSTANDING HUMANITARIAN SERVICE TO OUR STATE ON THE OCCASION OF ITS TENTH ANNIVERSARY.

WHEREAS, AGAPE of Central Alabama was licensed by the state in 1979 as an association created to provide guidance, aid, placement and empathy for dependent children and families; and

WHEREAS, during the past decade, AGAPE has served hundreds of abused and neglected children in Alabama by placing them in wholesome foster homes; and

WHEREAS, AGAPE has confronted in a most responsible manner the despairing problem of the numerous teenage unwed pregnancies in our state by providing adoptive services for infants of these young mothers; and

WHEREAS, in recognition of the tragic increase of child abuse and neglect in our state, AGAPE diligently strives to complement services provided by the Department of Human Resources and other private agencies in finding suitable foster homes for abused and neglected children; and

WHEREAS, with the strength of our state and our nation so vitally dependent on the strength of the family unit, AGAPE's services

include an individual and family counseling program aimed at building and strengthening family relationships; and

WHEREAS, with the austere general fund budgets of recent years, the importance of private agencies like AGAPE shouldering a portion of traditional state welfare responsibilities has never been more timely or necessary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, on the occasion of its tenth anniversary, we do hereby heartily commend AGAPE of Central Alabama for outstanding humanitarian service to the citizens of this state.

RESOLVED FURTHER, That a copy of this resolution be sent to the executive director of this worthy organization.

Approved May 11, 1989

Time: 6:04 P.M.

Act No. 89-778

H.J.R. 490—Reps. Kvalheim, Penry  
and McMillan

### HOUSE JOINT RESOLUTION

COMMENDING WALLACE, EVELYN AND SANDRA JOHNSTON OF THE BLUE GILL RESTAURANT.

WHEREAS, the Legislature of Alabama takes great pride in recognizing Wallace, Evelyn and Sandra Johnston, proprietors of the Blue Gill Restaurant on Battleship Parkway near Spanish Fort, Alabama, have been ambassadors of goodwill for the great state of Alabama; and

WHEREAS, Wallace, Evelyn and Sandra Johnston have made numerous and noteworthy contributions to the religious, civic, community and political affairs of this state; and

WHEREAS, the Blue Gill Restaurant has entertained celebrities such as Elvis Presley, Brenda Lee, Former Governors George C. Wallace and Jim Folsom, Former Lieutenant Governor Bill Baxley, Attorney General Don Siegelman, U.S. Senator Howell Heflin and state legislators, as well as many others whose autographed photographs fill the "gallery" walls of the restaurant; and

WHEREAS, the Blue Gill Restaurant is a well known tourist attraction and gathering place on the Eastern Shore because of its colorful clientele, excellent seafood and warm and gracious hospitality



served in full measure by Wallace, Evelyn and Sandra Johnston and their staff; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do affectionately commend and congratulate the proprietors of the Blue Gill Restaurant, Wallace, Evelyn and Sandra Johnston, for their devotion to and concern for their friends, their fellowman, their community and their state.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Wallace, Evelyn and Sandra Johnston of the Blue Gill Restaurant as evidence of our sincere appreciation and warmest personal regard.

Approved May 11, 1989

Time: 6:05 P.M.

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Act No. 89-779

H.J.R. 491—Rep. Carter

#### HOUSE JOINT RESOLUTION

COMMENDING TODD ANTHONY FENTRESS OF J. C. CALHOUN COMMUNITY COLLEGE.

WHEREAS, the Alabama Legislature, in highest honor and esteem, congratulates Todd Anthony Fentress of J. C. Calhoun Community College who was named top community college scholar in the nation in the first American Association of Community and Junior Colleges/Phi Theta Kappa National Student Scholar competition; and

WHEREAS, Todd Fentress also has been selected as Calhoun's Most Outstanding Student-Microprocessor and Outstanding Technical College Student for the State of Alabama; received the F. O. Smith Award; and is a member of the President's List; and

WHEREAS, an exemplary academic achiever, with a 3.86 GPA, Mr. Fentress is additionally involved in numerous extracurricular and community activities; and

WHEREAS, as the winner of the first AACJC/Phi Theta Kappa Award, Todd Fentress represents the best among 10 million community college students in America, and has thereby brought great honor to Calhoun Community College, Alabama's two-year college system and the entire state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition

of outstanding academic achievement and leadership, we hereby commend Todd Anthony Fentress, whom we hold in highest regard and to whom a copy of this resolution shall be presented.

Approved May 11, 1989

Time: 6:06 P.M.

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Act No. 89-780

H.J.R. 492—Rep. Payne

### HOUSE JOINT RESOLUTION

DESIGNATING A DAY AS UNITED DAUGHTERS OF THE CONFEDERACY DAY AT MOUNTAIN CREEK CONFEDERATE MEMORIAL PARK IN CHILTON COUNTY, ALABAMA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That one day in the month of June and July 1989, and annually thereafter, shall be designated as "United Daughters of the Confederacy Day" at Mountain Creek Confederate Memorial Park in Chilton County, Alabama. On said designated day, funds realized from projects conducted by the United Daughters of the Confederacy shall be allocated for the purpose of funding a United Daughters of the Confederacy room in any museum to be built at said park. However, the United Daughters of the Confederacy shall maintain control over all funds they raise at these events.

Approved May 11, 1989

Time: 6:07 P.M.

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Act No. 89-781

S. 259—Senator Goodwin

### AN ACT

To amend Section 32-5-222, Code of Alabama 1975, as amended, to relating to child passenger restraints in motor vehicles, so as to provide further therefor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-5-222, Code of Alabama 1975, as amended, is hereby amended to read as follows:

"§32-5-222.

"(a) Every person transporting a child under the age of six years in a motor vehicle registered in this state and operated on the

roadways, streets, or highways of this state, shall provide for the protection of the child by properly using a child passenger restraint system meeting applicable federal motor vehicle safety standards. Provided that, with respect to a child who is either 4 or 5 years of age, the term 'child passenger restraint system meeting applicable federal motor vehicle safety standards' shall be deemed to include seat belts installed by the motor vehicle manufacturer, dealer or owner. Provided that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence. Provided that the term 'motor vehicle' as used in this section shall not apply to trucks or buses having tonnage rating of one ton or more.

"(b) No provision of this section shall be construed as creating any duty, standard of care, right, or liability between parent and child that is not recognized under the laws of the state of Alabama as they presently exist, or may, at any time in the future, be constituted by statute or decision.

"(c) Any person violating the provisions of this section may be fined not more than \$10.00 for each offense.

"(d) The provisions of this section notwithstanding, nothing contained herein shall be deemed a violation of any law which would otherwise nullify or change in any way the provisions or coverage of any insurance contract."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:08 P.M.

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Act No. 89-782

S. 563—Senators Manley and Sanders

### AN ACT

Providing for a local salary supplement for the district judges of the 17th judicial circuit; providing that any local salary supplement provided for said judges by this act shall be in lieu of all local salary supplements and expense allowances heretofore provided by law for said judges; prescribing the methods for determining and funding the local salary supplement provided by this act for said judges; and repealing Act No. 81-1059, H. 6, 1981 Second Special Session.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each district court judge of the 17th judicial circuit shall receive a local salary supplement in the amount to be determined

under the provisions of Sections 2 and 3 of this act. The local salary supplement provided by this act for said judges shall be lieu of all local salary supplements and expense allowances heretofore provided by law for the district judges of the 17th judicial circuit.

**Section 2.** The amount of the local salary supplement provided by this act for the district judges of the 17th judicial circuit shall be determined as follows:

(a) Upon completion of six consecutive years of service as a district judge, said judge shall be eligible for a local salary supplement in an amount equal to ten percent (10%) of the annual salary paid to said judge by the state.

(b) Upon completion of fifteen consecutive years of service as a district judge, said judge shall be eligible for a local salary supplement in an amount equal to twenty percent (20%) of the annual salary paid to said judge by the state.

The appropriate local salary supplement shall be paid to said judges for each year of continuous consecutive service as a district judge of the 17th judicial circuit. Such local salary supplement shall be paid from the general fund of the respective county in which the judge resides and shall be paid in equal monthly installments.

**Section 3.** The district judge of Greene County currently serving on the effective date of this act shall, in lieu of the salary supplement provided in Section 2 of this act, receive an expense allowance in the amount of two hundred and fifty dollars (\$250.00) per month until May 30, 1991, at which time the expense allowance shall terminate and thereafter the district judge of Greene County shall be subject to the provisions of Section 2 of this act. Said expense allowance shall be payable from the Greene County general fund.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed and specifically Act No. 81-1059, H. 6, 1981 Second Special Session, is repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:09 P.M.

Act No. 89-783

S. 565—Senator Covington

## AN ACT

Relating to Pike County; separating the office of the judge of probate from the chairmanship of the county commission pursuant to Constitutional Amendment 503 to the Constitution of 1901; providing for the compensation of such officers and transferring the duties, authority, records, assets and funds of such officers; and providing for the effective date.

WHEREAS, the people of Pike County have spoken, by ratifying Act No. 88-308, H. 894 of the 1988 Regular Session of November 8, 1988, which act became Constitutional Amendment 503 to the Constitution of 1901, and approved the Pike County Government Modernization Amendment; and

WHEREAS, Amendment No. 503 to the Constitution of 1901, prescribes, in part, that the office of the judge of probate and the chairmanship of the county commission shall be separated; transferring duties, records, assets and funds of such offices; providing for the qualifications and election procedures and compensation for such chairman and the judge of probate, and the effective date; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Pursuant to the Amendment No. 503 to the Constitution of 1901 for Pike County Government Modernization, and to the will of the people of Pike County, the judge of probate of Pike County shall not serve as chairman of the county commission nor shall he be paid any of the additional compensation, provided by law, for the chairman of the county commission, nor have any liabilities thereunder.

**Section 2.** On the date of the general election in 1994, and thereafter, the judge of probate of Pike County shall receive an annual salary equal to ninety percent (90%) of the total compensation paid to the presiding circuit judge of the Twelfth Judicial Circuit; such compensation shall be the total compensation for such officer and paid in equal installments, in the same manner as county employees are paid, from county funds. Such compensation shall be in lieu of any and all compensation currently received by such judge as fees, expense allowances and other charges and costs.

**Section 3.** The said chairman of the county commission shall be a resident citizen and qualified elector of Pike County, Alabama, and over the age of twenty-five years. Such chairman shall be elected by the qualified electors of the county at the general election to be held in the year 1994, and every four years thereafter, and shall hold office for a term of four years, beginning on the first Monday after the second Tuesday in January next after his election and until his successor is elected and qualified.

**Section 4.** The chairman shall take the oath of office required by members of the Pike County Commission and shall furnish good

and sufficient bond executed by some surety company, authorized to do business in Alabama, in the penal sum determined by the county commission and approved by the Judge of Probate of Pike County, Alabama, and conditioned upon the faithful performance of his duties as required by law, and the premium on said bond to be paid by Pike County, Alabama.

**Section 5.** The office of chairman shall be full time and such officer shall receive a minimum salary as provided by Section 11-3-4.1(c), Code of Alabama 1975, as amended. The chairman shall be the presiding officer of the commission and in addition to the rights, duties and powers designated in this act, he shall exercise and perform all other rights and duties in relation to the county commission now performed by the judge of probate, and shall be liable to the same pains and penalties in connection therewith as are now exercised by such judge and as provided by general laws in relation to county commissions, or like governing bodies.

**Section 6.** It is the purpose of this act to conserve revenue and promote the public convenience in Pike County by the Modernization of Pike County government, by separating the duties of chairman of the county commission by removing those duties from the judge of probate and transferring such duties to a full-time chairman in order to expeditiously fulfill those duties required by modern government.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 11, 1989

Time: 6:10 P.M.

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Act No. 89-784

S. 640—Senator Campbell

## AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Hartselle, in Morgan County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Hartselle in Morgan County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

Beginning at the Southwest corner of Section 16, Township 7 South, Range 4 West said point being the TRUE POINT OF BEGINNING; thence North 1 degree 20' East along the West line of said Section 16 a distance of 1,945 feet, more or less to a point on the South right-of-way margin of Rustic Lane; thence South 88 degrees 00' East along the South right-of-way margin of said Rustic Lane a distance of 451.74 feet, more or less, to a point on the Westerly boundary line of the present corporate limits of the City of Hartselle, Alabama. Thence South along the Westerly boundary line of the present corporate limits a distance of 182 feet to a point; thence East along the present corporate limits a distance of 153.52 feet to a point on the Westerly boundary line of the corporate limits; thence South 1 degree 20' West along the Westerly boundary line of the present corporate limits a distance of 1,763 feet, more or less, to a point on the South line of Section 16; thence North 88 degrees 00' West along the South line of said Section 16 a distance of 660 feet to the TRUE POINT OF BEGINNING, lying and being in the West 1/2 of the Southwest 1/4 of the Southwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 16, Township 7 South, Range 4 West and containing 23.66 acres, more or less.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:11 P.M.

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Act No. 89-785

S. 659—Senators Campbell and Hale

## AN ACT

Relating to portions of Morgan County, to authorize the county governing body to levy an additional ad valorem tax, to provide said tax shall be subject to voter approval at a referendum, to provide for the collection and administration of said tax, to provide for the distribution of funds derived from said tax to volunteer fire departments and certain emergency medical technicians, to establish certain standards for eligible volunteer fire departments, to provide for the expending and accounting

of said funds, to provide for the treatment of funds upon dissolution or abandonment of a volunteer fire department and to provide that the county shall be immune from certain liability.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only to those portions of Morgan County located outside the corporate boundaries of the City of Decatur and the City of Hartselle.

**Section 2.** The legislature hereby declares that all volunteer fire departments and emergency medical technicians that are members of the volunteer fire departments that receive funds pursuant to this act are organizations which are public in nature, as they protect the health, safety and welfare of the citizens of the county.

**Section 3.** Pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the governing body of Morgan County after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax on the taxable properties in those portions of Morgan County located outside the corporate boundaries of the city of Decatur and the city of Hartselle. The county governing body may impose an additional ad valorem tax in the amount of three (3) mills on each dollar of taxable property in said portions of Morgan County.

**Section 4.** The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors residing in those portions of Morgan County located outside the corporate boundaries of the city of Decatur and the city of Hartselle who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901. On the ballot to be used at said election, the proposition to be voted on shall be stated substantially as follows: "Do you favor increasing the rate of ad valorem tax by an additional 3 mills on each dollar of taxable property with the proceeds being designated for volunteer fire departments and emergency medical technicians who are members of volunteer fire departments?"

**Section 5.** The tax shall be levied, collected, administered and enforced at the same time, in the same manner, and under the same requirements and laws as are the ad valorem taxes of the state. Officials collecting or assessing said tax shall be entitled to the same fees and compensation as are provided for collecting and assessing other ad valorem taxes. The proceeds of said tax shall be paid into the county general fund. Within thirty days of payment into the county general fund, the county governing body shall pay said funds to the Morgan County Association of Volunteer Fire Departments,



Inc., herein referred to as the county association. The county association shall divide said funds equally among all eligible volunteer fire departments. The county governing body and the county association may jointly establish rules and procedures regarding the transfer, investing, accounting and handling of said funds.

**Section 6.** An eligible volunteer fire department, for the purposes of this act, shall mean a volunteer fire department located in Morgan County that is certified under the Alabama Forestry Commission guidelines and is a member in good standing of the Morgan County Association of Volunteer Fire Departments, Inc.

**Section 7.** Funds paid to eligible volunteer fire departments shall only be expended for fire protection and emergency medical services, including training, supplies, buildings, capital improvements and equipment. Said funds may not be expended for salaries, food, drink, social activities or fund-raising activities. After receiving funds, the volunteer fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, the department shall file a form with the county association detailing the expenditure of all funds during the previous twelve months and setting out a schedule of all proposed projects. Said filing shall also account for all unspent funds and whether said unspent funds have been obligated. Unspent funds that have not been obligated which exceed the amount of total receipts for the prior year from this tax, shall be returned to the county association for redistribution. The county association shall supply the accounting forms to each eligible volunteer fire department.

**Section 8.** Upon dissolution or abandonment of any eligible volunteer fire department, any remaining funds derived from this act or any assets purchased with funds derived from this act shall, after all indebtedness has been satisfied, be transferred to the county association.

**Section 9.** The personnel of volunteer fire departments and emergency medical technicians that are members of volunteer fire departments provided for in this act shall not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said personnel of volunteer fire departments and emergency medical technicians units.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** If the additional tax rate prescribed in section 3 of this act is not approved by a majority of the qualified electors as prescribed in section 4, the provisions of this act shall be null and void.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:12 P.M.

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Act No. 89-786

H. 989—Rep. Harper

### AN ACT

To amend Act No. 88-872 of the 1988 First Special Session relative to the tax levied on the disposal of hazardous waste generated outside the State of Alabama to impose a "prevailing rate" fee on such waste.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 88-872 of the 1988 First Special Session is hereby amended by adding the following to Section 2:

"For hazardous wastes which are generated outside of Alabama and disposed of in Alabama, the tax levied in this Act shall be levied at the rate of the tax or fee imposed on the disposal of such waste in the state where the waste was generated as determined by the Director of the Alabama Department of Environmental Management. In no case, however, shall the tax levied in this Act on hazardous waste generated outside Alabama be less than the rate charged at the time of its disposal for hazardous waste generated and disposed of in Alabama. The fees levied herein shall not become effective until October 1, 1989."

**Section 2.** The increased revenues generated by the fees levied herein shall not be subject to appropriation until Fiscal Year 1991.

**Section 3.** This Act shall become effective upon the approval of the Governor, or its otherwise becoming a law.

Approved May 11, 1989

Time: 6:13 P.M.

Act No. 89-787

H. 985—Rep. Harper

## AN ACT

To amend Act No. 88-872 of the 1988 First Special Session by imposing certain additional per ton fees on operators of commercial sites for the disposal of hazardous wastes or hazardous substances.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act 88-872 of the 1988 First Special Session is hereby amended to add the following:

“In addition to the fees levied hereinabove, there is hereby levied a total of \$16.00 per ton to be paid on a graduated rate by the operators of each such commercial site for the disposal of hazardous wastes or hazardous substances in accordance with the following schedule:

(a) Eight and no/100 Dollars (\$8.00) per ton effective October 1, 1989, Seven and no/100 Dollars (\$7.00) of which shall be deposited in the General Fund of the State to be used for general operations; and One and no/100 Dollar (\$1.00) of which shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act;

(b) Four and no/100 Dollars (\$4.00 per ton effective October 1, 1990, Three and 50/100 Dollars (\$3.50 of which shall be deposited in the General Fund of the State to be used for general operations; and 50/100 Dollars (\$.50) of which shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act;

(c) Four and no/100 Dollars (\$4.00) per ton effective October 1, 1991, Three and 50/100 Dollars (\$3.50) of which shall be deposited in the General Fund of the State to be used for general operations; and 50/100 Dollars (\$.50) of which shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act.

The revenues generated by the fees for the State General Fund levied herein shall not be subject to appropriation before Fiscal Year 1991.”

**Section 2.** This Act shall become effective upon the approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:14 P.M.

Act No. 89-788

H. 755—Reps. Holley, Fuller, Box, Higginbotham, Petelos, Marks, Beasley, Haynes, Johnson (RW), Johnson (RG), Blakeney, White (L), Laird, Hammett, Campbell, Slaughter and Breedlove

### AN ACT

To amend Code of Alabama, 1975, §22-30-11, to provide for additional definitions and to prohibit commercial hazardous waste treatment or disposal facilities from accepting hazardous wastes generated in another state which prohibits the treatment, storage, or disposal of hazardous wastes within its own borders, or which refuses or fails to comply with 42 U.S.C. § 9604(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, which requires each state to adequately treat and dispose of all hazardous wastes reasonably expected to be generated within that state over the next 20 years through the establishment of a hazardous waste treatment or disposal facility within the state or through the use of a hazardous waste treatment or disposal facility located outside the state in accordance with an interstate agreement or regional agreement or authority.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature finds that:

(1) The generation, management, and disposal of hazardous wastes is a cause of continuing concern to the citizens of this state;

(2) The State of Alabama has a responsibility to protect the public health, welfare, and safety of its citizens by and through the enactment of laws designed to protect and preserve the environment from the health risks and endangerments associated with the treatment and disposal of hazardous wastes;

(3) The United States Congress, recognizing the serious health threats and risks posed by the treatment and disposal of hazardous wastes to public health and the environment, enacted the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") 42 U.S.C. 9604(c)(9), as amended, which requires that each state demonstrate by October 17, 1989, that it has adequate capacity to treat, destroy, or secure disposition of all hazardous wastes

reasonably expected to be generated within the state over the next 20 years through the establishment of a hazardous waste treatment or disposal facility located within its borders, or through the use of a hazardous waste treatment or disposal facility located outside the state in accordance with an interstate agreement or regional agreement or authority;

(4) In enacting the capacity assurance requirements, Congress recognized that local pressures have impeded the siting of new hazardous waste treatment and disposal facilities in the nation in the past several years, and that if the federal Resource Conservation and Recovery Act as amended ("RCRA") and CERCLA are to work properly, such additional sites must be made available. Since Alabama is already bearing far more than its fair share of the burden of managing hazardous wastes, it is only equitable that new capacity be developed in other states which have failed to assume their own obligations to site such facilities.

(5) Both Congress and the U. S. Environmental Protection Agency have recognized that the capacity assurance provisions of CERCLA would be used to force the development of new capacity to manage hazardous wastes. Implicit in the CERCLA capacity-assurance procedure is a recognition that an importing state might refuse to enter into an agreement with an exporting state, requiring the exporting state to create available capacity through waste reduction or through siting new facilities, or enter into an agreement with another state to manage these wastes;

(6) The State of Alabama has enacted and implemented an approved program for the handling and disposal of hazardous wastes within its borders, known as the "Hazardous Wastes Management and Minimization Act," and has established regulations and guidelines for the treatment, storage and disposal of all hazardous wastes generated within the state, and continues to evaluate and update those regulations and guidelines;

(7) The State of Alabama, since 1978, has had an adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the state over the next 20 years through the establishment and continued existence of commercial hazardous waste facilities within the state;

(8) The State of Alabama has, since 1978, accepted for treatment and disposal, disproportionate amounts of hazardous wastes generated within the borders of other states which have not taken steps to provide the assurance required by 42 U.S.C. 9604(c)(9);

(9) The constant influx of large volumes of hazardous wastes entering this state over and through congested state, county, and

municipal highways and roads, coupled with the ever-increasing potential for traffic accidents and mishaps involving hazardous waste transporters, and the likelihood of leaks, spills, and/or explosions of said hazardous wastes resulting therefrom, altogether pose an unreasonable and unjustifiable risk to the health, safety, and welfare of Alabama's citizens;

(10) The State of Alabama lacks the financial resources and trained personnel necessary to cope with the serious dangers and risks associated with the transportation within this state of the ever-increasing volumes of hazardous wastes generated out of state, and, as a consequence, it can no longer adequately insure the safety and protection of its citizens from these hazards;

(11) While the use of landfills for the disposal of hazardous wastes is presently an approved method of hazard waste management, the federal and state governments are implementing phased bans on land disposal and CERCLA describes the landfilling of wastes as the least desirable regulatory technology;

(12) The State of Alabama has a genuine and significant interest in protecting its citizens and its environment from the unemcumbered influx of hazardous waste generated in states which do not responsibly provide for the treatment, storage, and disposal of hazardous wastes within their own borders or which refuse to enter into an interstate or regional agreement to share the responsibilities of safe and effective hazardous waste management as required by CERCLA, as amended;

(13) The State of Alabama is compelled by the actions of other states which refuse to responsibly provide for hazardous waste treatment, storage, and disposal within their own borders or fail to cooperate in an interstate or regional plan for hazardous waste management, to enact legislation establishing a comprehensive waste management program in compliance with CERCLA, and which safeguards against the irresponsibility of other states which do not have adequate hazardous waste management programs by prohibiting the treatment, storage, or disposal of hazardous waste in Alabama which are generated in a state which does not allow hazardous waste treatment or disposal facilities within that state or which has not entered into an interstate or regional agreement to assure availability of hazardous waste treatment or disposal facilities.

(14) The imposition of the requirements contained in this legislation will encourage the development of new waste disposal facilities in other states in accord with the intentions of the Congress in enacting Section 42 U.S.C. § 9604(c)(9), and will have the beneficial effect of reducing, in an orderly manner, the nation's dependence on landfilling as a methodology for disposing of hazardous wastes.

**Section 2.** Code of Alabama, 1975, as amended, §22-30-11, is hereby amended as follows:

§22-30-11(a) The department acting through the commission, is authorized to promulgate, and may revise when appropriate, rules and regulations, guidelines, criteria and standards for all hazardous waste management practices.

(b) It is unlawful for any person who owns or operates a commercial hazardous waste treatment or disposal facility within this state to dispose or treat any hazardous wastes generated in any state outside the State of Alabama which:

(i) prohibits by law or regulation the treatment or disposal of hazardous wastes within that state and which has no facility permitted or existing within that state for the treatment or disposal of hazardous wastes; or

(ii) has no facility permitted or existing within that state for the treatment or disposal of hazardous wastes; unless that state has entered into an interstate or regional agreement for the safe disposal of hazardous wastes pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act. The department shall establish and maintain a list of states from which hazardous wastes cannot be accepted for treatment or disposal pursuant to this paragraph and there shall be no liability under the paragraph for disposal of wastes from a state until fifteen (15) days after a state has been listed by the Department. Such list shall be publicly available and set forth the reasons why each state is listed. The date on which a state is included on such list shall be provided. The list of states shall be revised monthly. The state of generation as shown on the hazardous waste manifest shall be used in determining whether a person has treated or disposed of waste in violation of this subsection, and any person who alters the state of generation on any manifest or misrepresents the state of generation of any hazardous waste for the purpose of circumventing this statute shall be punishable in accordance with Section 22-30-19 herein.

(c) Subsequent to the effective date of this Act, no commercial hazardous waste treatment or disposal facility operating in this state may contract with states other than the State of Alabama in order to satisfy the capacity assurance programs required by 42 U.S.C. § 9604(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended."

(d) For the purpose of this section, the following additional terms are defined:

(1) AGREEMENT. Any interstate or regional contract or agreement made pursuant to capacity assurance requirements of Section

42 U.S.C. § 9604(c)(9) of CERCLA and which one of the signatories to such contract or agreement is the State of Alabama.

(2) **COMMERCIAL HAZARDOUS WASTE TREATMENT OR DISPOSAL FACILITY.** A facility which receives for disposal only, or for treatment and disposal, hazardous wastes that are not generated on-site and to which facility a fee is paid or other consideration given for such treatment or disposal.

(3) **OPERATOR.** The person responsible for overall operations of a commercial hazardous waste treatment or disposal facility.

(4) **REGION(AL).** Region(al) shall mean any or all of the following states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

(5) **STATE OF GENERATION.** A state of the United States in which the hazardous waste is generated in the form in which it is received by a commercial hazardous waste treatment or disposal facility located in Alabama for treatment or disposal.

**Section 3.** The provisions of this act are cumulative and shall not be deemed to repeal existing laws.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 5.** This act shall become effective one hundred twenty (120) days after its passage and approval by the Governor, or upon its otherwise becoming a law except that Section 2(c) shall become effective immediately upon this Act becoming law.

Approved May 11, 1989

Time: 6:15 P.M.

Act No. 89-789

H. 731—Reps. Williams, Layson, Mikell,  
Grouby, Holley, Laird,  
Richardson, Parker, White (L)  
and Hall

## AN ACT

To amend Section 1-3-8 of the Code of Alabama 1975, relating to holidays observed by the state, so as to provide further for such holidays.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1-3-8 of the Code of Alabama 1975 is hereby amended to read as follows:

“Section 1-3-8.

(a) Sunday, Christmas day, New Year's day, Martin Luther King, Jr.'s birthday, Robert E. Lee's birthday, George Washington's birthday, Thomas Jefferson's birthday, Mardi Gras, Confederate Memorial day, Jefferson Davis' birthday, the Fourth day of July, Labor day, Columbus day and Fraternal day, Veteran's day and the day designated by the governor for public thanksgiving shall be deemed a holiday. If any holiday falls on Sunday, the following day is the holiday. If any holiday falls on Saturday, the preceding day shall be the holiday. Veterans' day shall be observed by the closing of all state, county and municipal offices, all banks located within this state and the public schools on such day. The superintendent of banks, with the concurrence of not less than two members of the state banking board, may authorize any state bank to close on National Memorial day, the last Monday in May, and on such other days as may be declared by the governor to be state holidays in honor of a special event. In the event any authorized state holiday falls on Friday, the superintendent of banks may authorize the Saturday following that Friday to be a holiday. The superintendent may also authorize the closing of banks at 12:00 noon on the day prior to Christmas day, and the day prior to New Year's day, if such days fall on business days.

(b) Of the above enumerated legal public holidays, the following shall be observed on the dates herein prescribed:

(1) Robert E. Lee's birthday - the third Monday in January.

(2) George Washington's birthday — the third Monday in February.

(3) Confederate Memorial day — the fourth Monday in April.

(4) Jefferson Davis' birthday — the first Monday in June.

(5) Columbus day and Fraternal day — the second Monday in October.

(6) Veterans' day — the eleventh day of November.

(7) Martin Luther King, Jr.'s birthday — the third Monday in January.”

**Section 2.** All state holidays shall be observed by the closing of all state offices. Any state office may remain open on a state holiday upon written notice by the appointing authority to the State Personnel Board at least sixty (60) days in advance of the holiday.

Provided, that any state office may be opened in the event of an emergency and the State Personnel Board may grant a blanket approval for the openings of state offices needing to be open on holidays on a regular basis for essential services. Any state employee working on a state holiday shall receive a day of compensatory leave or paid compensation in lieu of the holiday as provided herein.

**Section 3.** Each employee shall attempt to schedule any compensatory leave day provided in lieu of a regularly scheduled holiday, subject to the approval of the supervisor, during the quarter that the regular scheduled holiday occurred. In the event that any compensatory leave day cannot be scheduled during the designated quarter, then the compensatory leave day may be accumulated at the request of the employee for up to one year. Supervisors failing to schedule compensatory leave days for employees within the quarter, unless the day is carried forward at the request of the employee, must justify that action in writing to the Director of State Personnel and the employee shall receive pay at a rate not less than the employee's usual and customary rate of pay for any compensatory leave day to which he may be entitled and which has not been taken.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:16 P.M.

Act No. 89-790

H. 543—Reps. Harper and Marietta

### AN ACT

In the event that the Board of Water and Sewer Commissioners of any city ("Commissioners") takes over a Water and Fire Protection Authority's ("Authority") water system, to prohibit the Commissioners from charging customers located within the Authority's territory at rates or for connection fees in excess of the rates or fees charged to customers within the city limits; to increase the membership of the Commissioners' governing board to include the members of the Authority's governing board; to require the Commissioners to establish a \$2,000,000 trust fund for the support and maintenance of the Authority's fire protection system and to provide for the management of said trust; to require the Commissioners to establish an \$8,000,000

escrow account for the purpose of constructing water service improvements within a certain time in the Authority's territory; and to require the Commissioners to construct a sanitary sewer system within a certain time throughout the Authority's territory; and to except the application of this act if the governing board of the authority consents to said acquisition, operation or control of the water system by the commissioners.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** With respect to all customers located within the geographic area in which a Water and Fire Protection Authority ("Authority") is authorized by its certificate of incorporation to render water and fire protection service (said customers hereinafter called "county customers"), the Board of Water and Sewer Commissioners of a city ("Commissioners") is hereby prohibited from charging said county customers for water service or sanitary sewer service or both, and for the connection fee or fees for such service or services, at a rate or rates or by manner of calculation which exceeds the rate or rates or manner of calculation for the same service or services or connection fees charged by the Commissioners to customers located within the city limits, and in all respects in addition to the aforesaid the Commissioners shall treat said county customers as if they lived within the city limits.

**Section 2.** In the event that the Board of Water and Sewer Commissioners of any city ("Commissioners") should acquire, operate or control by virtue of assignment, conveyance, court order, operation of law or otherwise the water system of a Water and Fire Protection Authority ("Authority"), then the membership of the governing board of the Commissioners shall thereupon be increased to include the members of the governing board of the Authority notwithstanding any limitation or condition previously imposed by Section 11-50-342 of the Code of Alabama 1975.

**Section 3.** (a) In the event that the Board of Water and Sewer Commissioners of any city ("Commissioners") should acquire, operate or control by virtue of assignment, conveyance, court order, operation of law or otherwise the water system of a Water and Fire Protection Authority ("Authority"), then the Commissioners shall thereupon convey to the Authority the principal sum of \$2,000,000 in irrevocable trust for the support and maintenance of the Authority's fire protection system.

(b) The trustees of the trust so established shall be the members of the governing board of the Authority, as it may be comprised from time to time, who shall have all powers necessary to effect the support and maintenance of the Authority's fire protection system, including, but no limited to, the following powers:

(1) To adopt, alter and repeal bylaws, regulations and rules for the regulation and conduct of its affairs and business;

(2) To make, enter into and execute contracts, agreements and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which the trust was created or to exercise any power expressly or impliedly needed for the accomplishment of such purpose;

(3) To appoint, employ and contract with such employees, agents, advisors and consultants, including, but not limited to, attorneys, accountants, financial experts and such other advisors, consultants and agents as may in its judgment be necessary or desirable, and to fix their compensation;

(4) To borrow money for expenses or for any other purpose of the trust, and to pledge, mortgage, or otherwise encumber any property of the trust as security for any loans or bond issues of the Authority;

(5) To deduct, retain, expend, and pay out of money belonging to the trust, any and all necessary and proper expenses in connection with the operation and conduct of the trust, and to pay all taxes, insurance premiums and other legal assessments, debts, claims, or charges which at any time may be due and owing by, or which may exist against, the trust;

(6) To invest or reinvest the trust property in the following eligible investments:

(A) Demand deposits (interest bearing) in federally insured banks and interest bearing deposits (whether or not evidenced by certificates of deposit) in federally insured banks; provided, however, that said deposits plus interest shall be fully secured by obligations described in subdivisions (B) and (C) hereinbelow, to the extent that said deposits plus interest exceed insurance available from the Federal Deposit Insurance Corporation or from any agency of the United States of America that may succeed to the functions of the Federal Deposit Insurance Corporation;

(B) Bonds, notes and other evidences of indebtedness that are direct obligations of the United States of America or that are unconditionally guaranteed as to both principal and interest by the United States of America;

(C) Bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any federal agencies or government-sponsored enterprises authorized to issue their own debt instruments, including, without limitations to the following: Federal Farm Credit Bank, Federal Intermediate Credit Banks, the Export-Import Bank of the United States, Federal Land Banks, the Federal National Mortgage Association, the Tennessee Valley Authority, the Governmental National Mortgage Association, the Federal Financing Bank, Federal

Banks for Cooperatives, Federal Home Loan Banks, Federal Home and Loan Mortgage Association or the Farmers Home Administration;

(D) Repurchase agreements with federally insured banks or with government bond dealers reporting to and trading with the Federal Reserve Bank of New York, provided that such repurchase agreements are secured by obligations described in subdivisions (B) and (C) hereinabove;

(E) Interest bearing time deposits (whether or not evidenced by certificates of deposit) in savings and loan associations (i) the deposits of which are insured to the maximum extent possible by the Federal Savings and Loan Insurance Corporation or any agency of the United States of America that may succeed to its functions and (ii) the principal office of which is located in the state; provided, however, that said deposits plus interest shall be secured by obligations described in subdivisions (B) and (C) hereinabove, to the extent that said deposits plus interest exceed insurance available from the Federal Savings and Loan Insurance Corporation or from any agency of the United States of America that may succeed to the functions of the Federal Savings and Loan Insurance Corporation; and

(F) Any and all investments authorized under Section 19-3-120 of the Code of Alabama 1975.

(7) To apply the net income of the trust property, or such additional sum or sums from or out of the principal of such trust, to expenses for the support and maintenance of the Authority's fire protection system as the trustees in their discretion shall deem necessary or appropriate for such purposes.

(8) To do all of the things hereinabove set out and to exercise any other powers and authorities which such trustees generally have, without first obtaining any order of court therefor.

(c) An individual trustee shall not in any way be personally liable for any liability, loss or expense suffered by the trust fund unless such liability, loss or expense arises out of or results from the willful misconduct or wrongdoing of such trustee.

4. In the event that the Board of Water and Sewer Commissioners of any city ("Commissioners") should acquire, operate or control by virtue of assignment, conveyance, court order, operation of law or otherwise the water system of a Water and Fire Protection Authority ("Authority"), then the Commissioners shall deposit, in the manner set forth below, the aggregate sum of \$8,000,000 into an escrow account to be used for the purpose of constructing improvements which shall supply water service throughout the Authority's territory in those areas which do not otherwise have such service. The escrow agent shall be any national banking association with

offices located in the city which shall be selected by mutual agreement of the Commissioners and Authority. The escrow account shall be funded and utilized as follows: Within six (6) months from the date that the Commissioners shall first acquire, operate or control the Authority's water system, the Commissioners shall deposit the sum of \$2,000,000 into said escrow account. On the same calendar day of such deposit for each of the next succeeding three (3) years thereafter, the Commissioners shall deposit the sum of \$2,000,000 into said account making the aggregate amount of all deposits into said account \$8,000,000. Within the one-year period after each said deposit, the Commissioners shall be required to construct improvements for the expansion of water service in areas within the Authority's territory which are designated by the governing board of the Authority, and as much of the \$2,000,000 deposit as may be reasonably practicable shall be used for such construction, and for no other purpose, during each said one-year period. The governing board of the Authority shall deliver to the escrow agent and the Commissioners at the commencement of each said one-year period a written plan designating the areas within the Authority's territory where the improvements shall be constructed during that year. The escrow agent shall be authorized to release funds from the escrow account to the Commissioners from time to time during the course of each such year only upon submission by the Commissioners to the escrow agent of one or more sworn statements defining the areas where the water service improvements will be constructed and certifying that such areas are included in those designated on the written plan submitted by the Authority and that the released funds will be expended within twenty (20) days of release in remittance of the costs of construction of such improvements. The escrow agent shall be entitled to a reasonable fee for its services but not to exceed in the aggregate one-half of one percent of the total amount deposited in said account during the entire period of its existence.

**Section 5.** In the event that the Board of Water and Sewer Commissioners of any city ("Commissioners") should acquire, operate or control by virtue of assignment, conveyance, court order, operation of law or otherwise the water system of a Water and Fire Protection Authority ("Authority"), then the Commissioners shall conduct a study and adopt a plan within one (1) year from the date that the Commissioners shall first acquire, operate or control the Authority's water system providing for the construction of a sanitary sewer service system throughout the Authority's territory. The said plan shall be implemented and the improvements contemplated thereby constructed by the Commissioners within five (5) years from the date that the Commissioners receive all necessary approvals (whether regulatory or judicial) and permits for the implementation and construction of an outfall line or any alternative sewer treatment or discharge facility capable of servicing the Authority's territory.

**Section 6.** The provisions of this act shall not apply in the event the water system that is to be acquired, operated or controlled consents to said acquisition, operation or control by a unanimous vote of the governing board of the Water and Fire Protection Authority.

Said vote shall not be taken until notification of such vote has been published by the governing board of the Water and Fire Protection Authority in a newspaper of general circulation in the area served by the water system for four weeks and a public hearing regarding said vote is held at the end of said publication period.

**Section 7.** Any law or part of law or court decision in conflict with or inconsistent with this act is hereby repealed insofar as such law or court decision conflict with or is inconsistent with this Act.

**Section 8.** The provisions of the Act are severable. If any section, clause, provision, or portion of this act shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, or provision of this Act which is not in and of itself invalid or unconstitutional.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 11, 1989

Time: 6:17 P.M.

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Act No. 89-791

H. 966—Rep. Biddle

### AN ACT

This bill establishes an expense allowance for the sheriff of Jefferson County, Alabama, and provides that this act shall begin immediately and at the beginning of each term of office of said sheriff thereafter; including manner in which said allowance will be paid.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply to Jefferson County and to no other county.

**Section 2.** As used herein, these terms have the meanings hereby given them: "county" means Jefferson County; "sheriff" means sheriff of Jefferson County, Alabama.

**Section 3.** Commencing immediately and continuing at the beginning date of each successive term of office thereafter, the sheriff

shall receive a monthly expense allowance in the amount of five hundred dollars (\$500.00) per month. This expense allowance shall be in addition to all other salaries and other benefits provided by law for such office.

**Section 4.** All expense allowances provided for by this act shall be paid in advance on the first day of each month from the treasury of Jefferson County. The sheriff receiving this expense allowance shall not be required to file an accounting thereof.

**Section 5.** All laws or parts of laws, whether general, local or special, in conflict with any part of this act are hereby repealed to the extent of any such conflict.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:18 P.M.

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Act No. 89-792

H. 1020—Rep. Clark (J)

### AN ACT

Relating to Barbour County; to provide that beer or ale may be sold in containers not exceeding 32 ounces in size.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Barbour County, in addition to all other containers provided for by law, beer or ale may be sold in containers that do not exceed 32 ounces in size. The taxes on the beer or ale in such containers shall be as provided by general state law.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 6:19 P.M.



Act No. 89-793

S. 61—Senator Ellis

## AN ACT

To establish an Alabama Uniform Fraudulent Transfer Act; to provide definitions; to provide for debtor insolvency; to clarify the meaning of value; to provide for determination as to transfers fraudulent as to present and future creditors; to provide for determination as to when the transfer is made; to provide remedies of creditors, provisions for defenses, liability and protection of the transferee and how a claim for relief is extinguished; to provide for application of the act; to repeal Alabama Code sections 8-9-6, 8-9-7, and 8-9-9 (1975) as amended relating to fraudulent conveyances and assignments of property to defraud creditors; and to provide that the Act shall become effective January 1, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Definitions.**

As used in this Act:

(1) "Affiliate" means:

(i) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

(B) solely to secure a debt, if the person has not exercised the power to vote;

(ii) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole power to vote the securities; or

(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

(iii) a person whose business is operated by the debtor under a lease or other agreement or a person substantially all of whose assets are controlled by the debtor, or

(iv) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(2) "Asset" means property of a debtor, but the term does not include:

- (i) property to the extent it is encumbered by a valid lien;
- (ii) property to the extent it is generally exempt under non-bankruptcy law; or
- (iii) an interest in property held in tenancy in common for life with cross contingent remainder to the survivor in fee to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(3) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) "Creditor" means a person who has a claim.

(5) "Debt" means liability on a claim.

(6) "Debtor" means a person who is liable on a claim.

(7) "Includes" is not a limiting term.

(8) "Insider" includes:

- (i) if the debtor is an individual,
    - (A) a relative of the debtor or of a general partner of the debtor;
    - (B) a partnership in which the debtor is a general partner;
    - (C) a general partner in a partnership described in clause (B);
- or

(D) a corporation of which the debtor is a director, officer, or person in control;

(ii) if the debtor is a corporation,

- (A) a director of the debtor;
- (B) an officer of the debtor;
- (C) a person in control of the debtor;
- (D) a partnership in which the debtor is a general partner;
- (E) a general partner in a partnership described in clause (D);

or

(F) a relative of a general partner, director, officer, or person in control of the debtor,

(iii) if the debtor is a partnership,

- (A) a general partner in the debtor;
- (B) a relative of a general partner in, a general partner of, or a person in control of the debtor;
- (C) another partnership in which the debtor is a general partner;
- (D) a general partner in a partnership described in clause (C);  
or
- (E) a person in control of the debtor;
- (iv) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and
- (v) a managing agent of the debtor.

(9) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(10) "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(11) "Property" means both real and personal property, whether tangible or intangible, and any interest in property whether legal or equitable and includes anything that may be the subject of ownership.

(12) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(13) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

(14) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

## **Section 2. Insolvency.**

(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this Act.

(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

### **Section 3. Value.**

(a) Value is given for a transfer if, in exchange for the transfer, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise to furnish support to the debtor or another person made otherwise than in the ordinary course of the promisor's business.

(b) For the purposes of Sections 4(c) and 5(a), a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

### **Section 4. Transfers Fraudulent as to Present and Future Creditors.**

(a) A transfer made by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made if the debtor made the transfer with actual intent to hinder, delay or defraud any creditor of the debtor.

(b) In determining actual intent under subsection (a), consideration may be given, among other factors, to whether:

- (1) the transfer was to an insider;
- (2) the debtor retained possession or control of the property transferred after the transfer;
- (3) the transfer was disclosed or concealed;
- (4) before the transfer was made the debtor had been sued or threatened with suit;

- (5) the transfer was of substantially all the debtor's assets;
- (6) the debtor absconded;
- (7) the debtor removed or concealed assets;
- (8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred;
- (9) the debtor was insolvent or became insolvent shortly after the transfer was made;
- (10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and
- (11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

(c) A transfer made by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made, if the debtor made the transfer without receiving a reasonably equivalent value in exchange for the transfer and the debtor:

(1) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(2) intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.

#### **Section 5. Transfers Fraudulent as to Present Creditors.**

(a) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the debtor made the transfer without receiving a reasonably equivalent value in exchange for the transfer and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer.

(b) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt and the debtor was insolvent at that time and the insider had reasonable cause to believe that the debtor was insolvent.

#### **Section 6. When Transfer is Made.**

For the purposes of this Act:

(1) a transfer is made:

(i) with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected

that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(ii) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this Act that is superior to the interest of the transferee;

(2) if applicable law permits the transfer to be perfected as provided in subdivision (1) and the transfer is not so perfected before the commencement of an action for relief under this [Act], the transfer is deemed made immediately before the commencement of the action;

(3) if applicable law does not permit the transfer to be perfected as provided in subdivision (1), the transfer is made when it becomes effective between the debtor and the transferee.

(4) except with respect to personal property and fixtures where a lender has perfected its security interest in such property in which event Section 6(1)(ii) shall apply, a transfer is not made until the debtor has acquired rights in the asset transferred;

## **Section 7. Remedies of Creditors.**

(a) In an action for relief against a transfer under this Act, the remedies available to creditors, subject to the limitations in Section 8, include:

(1) avoidance of the transfer to the extent necessary to satisfy the creditor's claim;

(2) an attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by any applicable provision of any other statute or the Alabama Rules of Civil Procedure;

(3) subject to applicable principles of equity and in accordance with applicable rules of civil procedure,

(i) an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(ii) appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(iii) any other relief the circumstances may require.

(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

**Section 8. Defenses, Liability, and Protection of Transferee.**

(a) A transfer is not voidable under Section 4(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee who took in good faith.

(b) Except as otherwise provided in this section, to the extent as transfer is voidable in an action by a creditor under Section 7(a)(1), the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy the creditor's claim, whichever is less, or judgment for conveyance of the asset transferred. The judgment may be entered against:

(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer under this Act, a good-faith transferee is entitled, to the extent of the value given the debtor for the transfer or to another person as a consequence of the debtor's making such transfer, to

(1) a lien on or a right to retain any interest in the asset transferred; or

(2) a reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under Section 4(c) or Section 5 if the transfer results from:

(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

(2) enforcement of a security interest in compliance with Article 9 of Title 7, Code of Alabama 1975 of the Uniform Commercial Code or a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor under a mortgage or deed of trust.

(f) A transfer is not voidable under Section 5(b):

(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

(2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as antecedent debt of the debtor.

### **Section 9. Extinguishment of Claim for Relief.**

A claim for relief with respect to a fraudulent transfer under this Act is extinguished unless action is brought:

(a) under Section 4(a) within 10 years after the transfer of real property was made.

(b) under Section 4(a) within 6 years after the transfer of personal property was made.

(c) under Section 4(c) or 5(a), within 4 years after the transfer was made when the action is brought by a creditor whose claim arose before the transfer was made.

(d) under Section 4(c), within 1 year after the transfer was made when the action is brought by a creditor whose claim arose after the transfer was made; or

(e) under Section 5(b), within 1 year after the transfer was made.

### **Section 10. Supplementary Provisions.**

Unless displaced by the provisions of this Act, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

### **Section 11. Uniformity of Application and Construction.**

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

### **Section 12. Short Title.**

This Act may be cited as the Alabama Uniform Fraudulent Transfer Act.

### **Section 13. Repeal.**

Alabama Code sections 8-9-6; 8-9-7; and 8-9-9 are hereby repealed.

### **Section 14. Applicability.**

This Act is applied to transfers made after the effective date of the Act.



**Section 15. Severability.**

If any provision of this Act or the applicability thereof is held to be invalid, the remaining provisions of this Act shall not be affected.

**Section 16.** This Act shall become effective January 1, 1990.

Approved May 11, 1989

Time: 6:20 P.M.

Act No. 89-794

H. 875—Reps. Newton (D), Spratt, Escott  
and Perdue

**AN ACT**

To provide that any Class 1 municipality that owns a civic center, or any public corporation that owns a civic center located within a Class 1 municipality, shall have the power to own and operate a hotel of sufficient size and quality to accommodate persons attending conventions held at such civic center, as well as any related restaurants, meeting rooms and other facilities and services commonly provided by hotels; and to provide that any such municipality or public corporation shall be able to provide for the operation of any such hotel by entering into one or more management contracts with private companies and that any such management contract shall be exempt from the requirements of competitive bid laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other powers heretofore granted by law, any Class 1 municipality that owns a civic center, or any public corporation that owns a civic center located within a Class 1 municipality, shall have the power to own and operate a hotel, together with any related restaurants, meeting rooms and other facilities and services commonly provided by hotels, subject to the requirements that (i) such hotel and such restaurants and other facilities are located within, or are located on a tract of land contiguous to, the area designated for civic center purposes by the governing body of the municipality in which such civic center is located, (ii) such hotel is of sufficient size and quality to accommodate persons attending conventions held at such civic center, and (iii) if such hotel is to be owned or operated by the Class 1 municipality, and if there is at the time a public corporation in existence that owns a civic center located within such municipality, such municipality shall obtain the approval of the governing body of such public corporation and the approval of the governing body of the county in which all or the largest part of the area of such municipality is located as conditions precedent to the ownership or operation of such hotel by such municipality, such approvals to be evidenced by formal resolutions

respectively adopted by the governing bodies of such public corporation and such county. For purposes of clause (i) in the preceding sentence, two tracts of land shall be deemed to be contiguous if such tracts share a common boundary line or perimeter point or if such tracts are separated only by a public street or highway. A hotel shall be deemed to satisfy the requirement set forth in clause (ii) in the first sentence of this paragraph if either of the following two conditions is satisfied; (a) the governing body of the municipality in which such civic center is located, or, alternatively, if such civic center is owned by a separate public corporation, the governing body of such public corporation, shall adopt a resolution finding that the size, quality and other physical and operating characteristics of such hotel are appropriate for its use as a primary lodging facility for guests attending conventions at such civic center; or (b) at the time such hotel is acquired by any municipality or separate public corporation, or at the time any project for the construction, expansion or renovation of such hotel is undertaken by any municipality or separate public corporation, as the case may be, such hotel, as it then exists or as it is expected to exist after the completion of any planned construction, expansion or renovation project, shall have the largest number of rentable rooms of any hotel that is then operational and located in the same municipality.

**Section 2.** Any municipality or separate public corporation authorized to own and operate a hotel pursuant to the provisions of this act may operate such hotel through one or more management contracts with private companies experienced in the operation of hotels, and such management contract shall be exempt from the provisions of Sections 41-16-50 through 41-16-63, Code of Alabama 1975, inclusive, and shall be awarded for such term and in accordance with such conditions as shall be determined by the governing body of said municipality or separate public corporation, as the case may be. Nothing contained in this act shall be construed to limit any hotel owned and operated by any municipality or public corporation to providing services to persons attending conventions that use the civic center facilities owned by such municipality or public corporation, and any hotel owned and operated by a municipality or a public corporation pursuant to this act shall be entitled to serve the general public to the full extent permitted hotels under the laws of the state.

**Section 3.** All laws and parts of laws, whether general, special or local, in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

**Section 4.** This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 5:00 P.M.

Act No. 89-795

H. 157—Reps. Turnham and Laird

## AN ACT

Proposing an amendment to Article IV, Section 98, Constitution of Alabama, to provide that the legislature shall have the power to provide that elected superintendents of education shall be eligible to participate in the Teachers' Retirement System of Alabama as the legislature may see fit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama is proposed and shall become valid as part of the Constitution when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor:

PROPOSED AMENDMENT  
TO  
ARTICLE IV, SECTION 98  
CONSTITUTION OF ALABAMA

**Section 98.** The legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer; however, the legislature shall have the authority to provide that superintendents of education shall be eligible to participate in the Teachers' Retirement System of Alabama as the legislature may see fit.

**Section 2.** An election upon this proposed amendment shall be held on the date of the first primary, general or special election held after the expiration of three months from the final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Section 284 and 285 of the Constitution of Alabama, as amended, and Section 17-17-1 through 17-17-6 of the Code of Alabama 1975.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. If a newspaper is not published in the county, a copy of the notice shall be posted at the courthouse and in three other places in the county.

CONSTITUTIONAL AMENDMENT

Passed the House as amended April 13, 1989

Passed the Senate May 11, 1989

Act No. 89-796

H. 616—Reps. Harper and Zoghby

## AN ACT

Providing for a certain conditional appropriation from the state general fund to Senior Citizens Services, Incorporated for the 1989-90 fiscal year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The sum of \$250,000.00, or so much thereof as may become available as herein provided, is hereby appropriated from the state general fund to Senior Citizens Services, Incorporated for the 1989-90 fiscal year. The appropriation made herein is conditional upon the condition of the state general fund, as ascertained by the Governor, and shall be released only upon orders of the Governor.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed, the Governor's veto to the contrary notwithstanding, on May 11, 1989.

Act No. 89-797

H. 984—Rep. Moon

## AN ACT

Relating to Marshall County, levying a sales tax on certain alcoholic beverages sold at retail in the county and providing for its distribution.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Pursuant to the authority granted in Section 104 of the Constitution of Alabama of 1901, in Marshall County there is hereby imposed a sales tax in the amount of five percent (5%) of the retail price, excluding taxes, on the sales of alcoholic beverages sold at retail in the county by alcoholic beverage control board stores. The tax levied under the provisions of this act shall be collected as are other taxes on alcoholic beverages and deposited in the county general fund to be distributed as follows: 1/3 to the City of Guntersville for law enforcement purposes; 1/3 to the sheriff's office for law enforcement purposes; and 1/3 to the county district attorney's office for administration of said office. In the event any municipality in the county becomes wet subsequent to the effective date of this act, any increase in revenues from the liquor taxes imposed herein that results from such municipality becoming wet, shall be divided

between such municipality, the sheriff's office and the district attorney's office according to the aforementioned formula and expended for the purposes prescribed in such formula.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed, the Governor's veto to the contrary notwithstanding, on May 11, 1989.

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Act No. 89-798

S. 638—Senator deGraffenreid

### AN ACT

To propose a constitutional amendment authorizing the legislature to enact laws regulating costs and charges of court in certain political subdivisions; to validate certain prior acts and actions taken pursuant thereto; and to prohibit retroactive levy and collection of said costs and charges.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285 and 287 of the Constitution of 1901 as amended:

### PROPOSED AMENDMENT

In addition to all other powers granted by this constitution to the legislative department, the legislative department shall have the power from time to time, by general or local law, to regulate costs and charges of courts in any judicial circuit, county, municipality or other political subdivision. All general laws, local laws, population-based laws and other laws heretofore enacted by the legislature regulating costs and charges of courts are hereby in all things ratified, approved, validated and confirmed as of the date of their enactment and any actions taken or payments made in accordance with the provisions of said laws are hereby ratified, approved, validated and confirmed. This amendment does not authorize a retroactive levy or collection of costs and charges of courts.

**Section 2.** An election upon the proposed amendment is ordered to be held at the next general, special, primary or constitutional

amendment election after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and the general election laws of this state.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

### CONSTITUTIONAL AMENDMENT

Passed the Senate May 3, 1989

Passed the House May 11, 1989

Act No. 89-799

H. 870—Reps. Harper and Marietta

### AN ACT

To propose an amendment to the Constitution of Alabama to authorize the state to pay a portion of the capital costs of public facilities and works of internal improvement consisting of the deepening, widening and extending of the existing Federal channel at Bayou La Batre, Alabama and acquisition, development, construction, improvement, expansion, and modernization (or any of them) of general cargo handling facilities of the State Docks at the Port of Mobile; to authorize the state to issue in connection therewith interest-bearing general obligation bonds of the state in principal amount not exceeding \$20,000,000; and to authorize the state to establish a bond commission with the powers and resources necessary to issue the bonds authorized by this amendment to be issued by the state.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285 and 287 of the Constitution of 1901 as amended:

### PROPOSED AMENDMENT

The legislature may by appropriate laws authorize the state to pay a portion of the capital costs of public facilities and works of internal improvement consisting of (a) fulfilling a portion of the requirements of local contribution, participation and cooperation now or hereafter established by the United States in connection with the

deepening, widening and extending of the existing Federal channel at Bayou La Batre, Alabama and (b) the acquisition, development, construction, improvement, expansion, and modernization (or any of them) of general cargo handling facilities of the State Docks at the Port of Mobile.

The legislature may by appropriate laws authorize the state to become indebted and, in evidence of such indebtedness, to sell and issue its interest-bearing bonds, in an aggregate principal amount not exceeding \$20,000,000, for the purpose of enabling the state to discharge obligations at any time authorized by the legislature to be undertaken in connection with the channel deepening project and the State Docks projects. The expenses incurred in connection with the sale and issuance of the bonds may also be paid from the proceeds thereof. The bonds may be sold by the Bond Commission authorized herein at public or private sale, with or without competitive bidding, at such price or prices and on such terms and conditions as the Bond Commission shall determine to be in the best interest of the State. Bonds evidencing the herein provided for indebtedness may be issued as direct general obligations of the state, and the state may pledge its full faith and credit to the prompt payment of the principal of the bonds and the interest and redemption premium (if any) thereon. The said bonds may be additionally secured by any special pledges that may be provided for by the legislature. The herein provided for indebtedness shall not be construed to prohibit or limit appropriations from the general fund of the state which from time to time may be made for the purpose of enabling the state to discharge obligations at any time authorized by the legislature to be undertaken in connection with the channel deepening project and the State Docks projects.

The legislature may by appropriate laws establish a Bond Commission and may confer upon it, in addition to all other necessary powers, full power to determine the terms and conditions of the bonds and to provide for the sale and issuance thereof. The legislature may authorize the herein provided for general obligation bonds of the state to be sold from time to time under the supervision of such Bond Commission. All monies received as proceeds of the sale of the state's bonds, shall be expended, except for reasonable issuance costs and administrative expenses, in discharging obligations that the state is permitted under the foregoing provisions of this amendment to undertake in connection with the channel deepening project and the State Docks projects. The legislature shall enact appropriate enabling legislation to carry out the intent and purpose of this amendment.

**Section 2.** An election upon the proposed amendment is ordered to be held at the next general, special, primary or constitutional

amendment election after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and Chapter 17 of Title 17 of the Code of Alabama, 1975.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse in such county.

### CONSTITUTIONAL AMENDMENT

Passed the House as amended April 27, 1989

Passed the Senate as amended May 11, 1989

House concurred in Senate Amendment May 11, 1989

Act No. 89-800

S. 207—Senators Foshee, Parsons, Barron,  
Ellis, Corbett, Mitchem and  
Goodwin

### AN ACT

To allow part time legislative employees who work on a regular basis when the legislature of Alabama is in session to make an additional contribution into the State of Alabama Employees' Retirement System Fund for additional credit towards retirement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions: For the purpose of this act only the following words and phrases shall have the following meanings:

A. Legislature — The House of Representatives, The State Senate, The Legislative Fiscal Office, and the Legislative Reference Service Office of the State of Alabama.

B. Full Time Employee — Any person who has worked continuously for the House of Representatives, the State Senate, the Legislative Fiscal Office, or the Legislative Reference Service Office of the State of Alabama for three (3) or more continuous years.

C. Part Time Employee — Any person who has worked a minimum of eighty percent (80%) of the Legislative sessions for a period of seven (7) or more years, and who works a maximum of six (6)



months per year, for the House of Representatives, the State Senate, the Legislative Fiscal Office, or the Legislative Reference Service Office of the State of Alabama.

**Section 2.** Each part time employee of the Legislature of Alabama who is eligible and has elected to participate in the State of Alabama Employees' Retirement System shall be eligible to pay into the State of Alabama Employees' Retirement System up to one half (1/2) or fifty percent (50%) of the amount of money the part time employee has previously contributed into the fund. Upon paying up to one half (1/2) or fifty percent (50%) of the money the part time employee has previously contributed into the State of Alabama Employees' Retirement Fund, the legislative employee shall receive a credit proportional to his or her payment of up to one half (1/2) or fifty percent (50%) in addition retirement credit in years and months from the State of Alabama Employees' Retirement System. Any employee may elect to pay an amount into the State Employees' Retirement Fund of less than fifty percent (50%) or one half (1/2) of his or her total part time retirement contribution previously paid and shall then receive a corresponding percentage credit in years and months of service towards retirement.

**Section 3.** The election to purchase additional retirement time in Section One of this act shall be restricted only to previous part time employment in the legislature. The election to purchase additional retirement time shall be restricted to part time employees or present full time employees who were previously part time employees who are now presently employed by the legislature. The eligible legislative employee shall purchase such time by paying the additional amount he would have contributed had he been allowed to do so when the service was rendered. The contributions made under Sections 1, 2 and 3 of this act shall be made by June 1, 1990.

**Section 4.** Any part time legislative employee who qualifies and chooses to pay into the State of Alabama Employees' Retirement System, beginning with the Regular Session of the Legislature of Alabama in 1989, may choose to pay an additional fifty percent (50%) into the State of Alabama Employees' Retirement System and receive an additional fifty percent (50%) credit in months of employment to his or her credit, towards retirement.

**Section 5.** This act is severable. If any part is declared invalid or unconstitutional, it shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed to the extent necessary to carry out the provisions of this act only.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 11, 1989

Time: 11:45 P.M.

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Act No. 89-801

H.J.R. 40—Rep. Carter

### HOUSE JOINT RESOLUTION

**DIRECTING THE ALABAMA BUREAU OF TOURISM AND TRAVEL TO RESPOND TO ALL REQUESTS FOR INFORMATION ON ALABAMA.**

**WHEREAS**, the purpose of the Alabama Bureau of Tourism and Travel is to encourage and expand that important industry in our state; and

**WHEREAS**, large-scale advertising campaigns and special promotions are, of course, an invaluable approach that has proven effective in attracting tourists to Alabama and has also increased travel throughout the state; and

**WHEREAS**, a very basic function of the bureau, however, should be to provide information on Alabama to the public and to supply promotional and other materials upon request; and

**WHEREAS**, it has come to our attention that the Bureau of Tourism and Travel does not stock or distribute such material, and that individual requests from potential tourists, as well as inquiries from students in Alabama and other states, either go unanswered or their inquiries are referred to other state agencies; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, That we hereby direct the Alabama Bureau of Tourism and Travel to stock and maintain an adequate supply of promotional and informational materials on the State of Alabama, and that any letters of inquiry from the public receive a timely response and include the requested materials.

**BE IT FURTHER RESOLVED**, That a copy of this resolution be forwarded forthwith to the director of the Bureau of Tourism and Travel.

This Act became a law under Section 125 of the Constitution on May 11, 1989 without approval by the Governor.

Act No. 89-802

H.J.R. 414—Reps. Ford and Colvin

## HOUSE JOINT RESOLUTION

COMMENDING COMMISSIONER OF LABOR ROBIN REA AND ASSISTANT COMMISSIONER OF LABOR MIKE MORGAN OF MONTGOMERY, ALABAMA.

WHEREAS, the Legislature of Alabama wishes to recognize the extraordinary efforts of Robin Rea, Commissioner of Labor and Mike Morgan, Assistant Commissioner of Labor of Montgomery, Alabama, during the recent labor dispute in Gadsden, Alabama; and

WHEREAS, the intense dispute occurred on April 1, 1989, between Gulf States Steel and the United Steelworkers of America with feelings on both sides to the breaking point; and

WHEREAS, through the expertise and professionalism of Commissioner Rea and Assistant Commissioner Morgan, communication resumed between the Union and Gulf States Steel and the tension began to subside; and

WHEREAS, a settlement was reached between the parties, the contract was ratified by the Union membership and labor peace will reign for the next four years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend and offer our sincerest appreciation to Commissioner of Labor Robin Rea and Assistant Commissioner of Labor Mike Morgan for their recent efforts related to the labor dispute in Gadsden.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Commissioner Rea and Assistant Commissioner Morgan as a mere token of our high esteem and warmest personal regard.

This Act became a law under Section 125 of the Constitution on May 5, 1989 without approval by the Governor.

Act No. 89-803

H. 182—Rep. Harper

## AN ACT

To make an appropriation of \$115,000 from the Alabama Special Educational Trust Fund to the Alabama League for the Advancement of Education for the fiscal

year ending September 30, 1990, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Alabama League for the Advancement of Education from the Alabama Special Educational Trust Fund the amount of one hundred fifteen thousand dollars (\$115,000) for the fiscal year ending September 30, 1990.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1989-90, an operations plan for fiscal year 1988-89 and an audited financial statement for all operations during fiscal year 1987-88 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1989-90 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1989.

This Act became a law under Section 125 of the Constitution on May 3, 1989 without approval by the Governor.

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Act No. 89-804

S. 280—Senator Drinkard

### AN ACT

To further provide for deductions from the salaries of state employees for employee organizations under certain conditions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The policies adopted by the state comptroller for deductions from the salaries of state employees or groups of state employees for employee organizations shall provide that the deductions for membership dues and voluntary contributions shall be made based on membership lists and forms provided by the employees' organization. Such lists are to be corrected and revised annually according to procedures to be established by the state comptroller. Membership dues and voluntary contributions currently authorized shall continue on an annual basis for the current yearly period and for each succeeding yearly period unless the employee revokes the deduction in writing within 10 days of the next succeeding yearly period. Voluntary contributions may be revoked by giving a 30 day notice in writing. New authorizations shall be permitted on a monthly basis according to procedures to be established by the state comptroller. Upon leaving state service whether by death, retirement, termination, registration, leave of absence or other means, payroll deduction of dues and authorized voluntary deductions shall cease.

When an employee returns to state service from an approved leave of absence or other temporary leave, payroll deductions and voluntary contributions shall resume unless the employee revokes the deductions in writing. When amounts have been correctly deducted and remitted by the state comptroller, the state comptroller shall bear no further responsibility or liability for subsequent transactions.

**Section 2.** The provisions of this act are supplemental and shall not be construed to repeal any law not in direct conflict herewith. The provisions of this act shall not repeal any provision of law requiring a minimum number of employees before a deduction from the salaries of state employees shall be authorized.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 11, 1989 without approval by the Governor.

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Act No. 89-805

H. 563—Rep. Perdue

## AN ACT

To further amend Act 248 of the Regular Session of the Legislature of Alabama of 1945, approved July 6, 1945, (general acts of the Legislature of Alabama, pp. 376-400), as heretofore amended, related to creating and establishing in counties having a population of 400,000 or more according to the last or any future federal census, a county-wide civil service system, to provide for the creation in Class I municipalities of the executive exempt service and related matters as described below and hereby adopted as if set out in full herein.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That Act No. 248 of the Regular Session of the Legislature of Alabama of 1945, approved July 6, 1945 (general acts of the Legislature of Alabama, pp. 376-400), as heretofore amended, be and is hereby further amended to contain an additional section to read in full as follows:

“Executive Exempt Service. The classification of exempt executive service for Class I municipalities is hereby created. The board shall have authority to designate or create positions in the exempt executive service upon recommendation or request of the appointing authority of any Class I municipality. Such positions shall be created

or designated for primary policy determining positions such as department heads and their chief deputies. Persons employed in the exempt executive service shall serve at the pleasure of the appointing authority, at a rate of compensation and benefits set by the appointing authority. Such persons shall have no right of appeal to the board and no property interest in any exempt job. In the event that an employee of the classified service is appointed to the exempt executive service, such employee shall have the option to return to the classified service at any expiration or termination of the exempt appointment, at the same job classification from which such employee was appointed. Exempt executive service employees shall be members of any pension system available for employees in the department they serve unless the exempt person elects in writing to forfeit such participation. No person currently in the classified service shall be designated as in the exempt executive service unless such person voluntarily elects exempt status with the approval of the board and the appointing authority."

**Section 2.** Any law or regulation in conflict with this act is hereby repealed or modified to the extent of such conflict.

**Section 3.** The provisions of this act are severable. If any clause, sentence or other portion of this act less than the whole, is declared invalid, void, or unconstitutional by any court of competent jurisdiction, then so much of this act as remains shall continue in effect.

**Section 4.** This act shall become effective immediately.

Approved May 11, 1989

Time: 11:45 P.M.

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Act No. 89-806

H. 188—Rep. Harper

## AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1990, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of one million five hundred sixty-six thousand dollars (\$1,566,000) out of the funds in the Alabama Special Educational Trust Fund to be used for the support

and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

(a) Butler County Training School for the Mentally Retarded in Greenville .....	25,875
(b) Hope Haven School in Colbert County .....	35,000
(c) Montgomery Institute of Neurological Development .....	25,875
(d) Birmingham Training Center for Brain-Injured Children .....	36,225
(e) Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled .....	51,750
(f) Alice Pigman School .....	77,625
(g) Geneva County Day Care and Training Center .....	51,750
(h) McGraw Activity Center .....	51,750
(i) Dallas County Day Care and Training Center .....	51,750
(j) Calhoun County Community-"EDUCATION PAR EXCELLENCE" .....	75,000
(k) North Talladega County Association for Retarded Citizens, Inc. ....	25,875
(l) South Talladega County Association for Retarded Citizens, Inc. ....	25,875
(m) ECHO FOUNDATION .....	15,525
(n) Vivian B. Adams School .....	284,625
(o) McInnis School of Montgomery .....	414,000
(p) Alan Cott School .....	103,500
(q) Children's Hands-On Museum in Tuscaloosa .....	35,000
(r) Madison County Opportunities Center .....	25,000
(s) Madison Park Hope Center .....	20,000
(t) Dee Day School-Cherokee County .....	25,000
(u) Clay County Learning Center-Clay County .....	25,000
(v) Jackson-DeKalb County Special School for the Retarded at Northeast Junior College .....	39,000
(w) Valley Haven School .....	25,000

- (x) Russellville City School for Multi-Handicapped  
Children ..... 20,000

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1989-90, an operations plan for fiscal year 1988-89 and an audited financial statement for all operations during fiscal year 1987-88 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1989-90 funds following receipt of these reports.

**Section 3.** The provisions of this act are severable. If any section, paragraph, clause, provision, or item of this act be held unconstitutional, such declaration shall not affect any portion that remains.

**Section 4.** This Act shall become effective upon October 1, 1989.

Approved May 16, 1989

Time: 5:24 P.M.

Act No. 89-807

S. 469—Senator Holmes

### AN ACT

Further providing for service charges of worthless checks for restitution and in the criminal procedure from crimes relating to worthless checks or negotiating a worthless negotiable instrument and notice, so as to increase such charges; amending Section 12-17-224, Code of Alabama 1975, as amended by Act No. 87-565, S. 319, Regular Session 1987, relating to restitution process and service charges for worthless checks; amending Section 13A-9-13.1, Code of Alabama 1975, as amended, relating to the crime of negotiating a worthless negotiable instrument and service charges, and Section 13A-9-13.2, Code of Alabama 1975, as amended, relating to notice of such crime and service charges, so as to increase such service charges.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-224, Code of Alabama 1975, as amended by Act No. 87-565, S. 319, Regular Session 1987, is hereby further amended to read as follows:

“§12-17-224.

“(a) Each district attorney is hereby authorized and empowered to establish in his discretion, a special services division of his office which shall be under his direction and control and shall be organized for the following uses and purposes:

“(1) A section of the special services division of each such district attorney’s office may be organized as a worthless check unit. Each



district attorney who elects to establish said unit shall assign sufficient staff and resources to effectively operate said unit. The worthless check unit of the special services division of the district attorney's office shall be created for the purpose of processing worthless checks.

“(2) Procedures:

“a. Complaint referrals.—After following the requisites of section 13A-9-13.1, any party holding a worthless negotiable instrument may present a ‘complaint’ to the worthless check unit of the special services division of the district attorney's office. Upon receipt of such complaint, said complaint shall be evaluated by the worthless check unit, under the direction of the district attorney to determine whether or not said complaint is appropriate to be processed by the worthless check unit.

“1. Guidelines to be used in the determination of whether a complaint has been appropriately filed may include but are not limited to the following:

“(i) The amount of the check as recited in the complaint;

“(ii) Whether the defendant has a prior criminal record of violations involving issuing worthless checks;

“(iii) The number of checks previously received by the district attorney on this particular defendant;

“(iv) Whether the defendant has any worthless check charges pending; and

“(v) The strength of the evidence of intent to defraud the victim.

“2. Complaint withdrawals.—If after filing a ‘complaint’ with the worthless check unit the victim wishes to withdraw the complaint for good cause, the victim shall satisfy the service charge of \$30.00 to the worthless check unit for processing said complaint.

“b. Notice.—After approval of the complaint, a warrant may be issued by an appropriate warrant magistrate, and the warrant may be held by the worthless check unit. After issuance of a warrant or upon approval of a complaint by the worthless check unit, the unit shall notify the individual charged with violating section 13A-9-13.1 by issuing a notice to such individual that a warrant has been issued for his arrest or that a complaint has been received by the worthless check unit. Said notice may be sent by mail. Such notice shall inform said accused that he may be eligible for deferred prosecution for violation of section 13A-9-13.1 by voluntarily surrendering himself to the worthless check unit within 10 business days from the date of the notice.

“c. Voluntary surrender.—Upon voluntary surrender, the accused may be presented with the warrant or complaint and prosecution of

same may be deferred upon payment of restitution and the service charge for processing the check, to the worthless check unit. Upon election by the worthless check unit, the accused may sign a restitution agreement which shall contain the terms by which the restitution and the service charge may be paid.

“d. Nonsurrender.—If, after receiving said notice, the accused shall not voluntarily surrender himself to the worthless check unit within the 10 business days prescribed in said notice, said violation shall be prosecuted in accordance with applicable laws and procedures.

“e. Fees and restitution.

“1. Definitions.

“(i) Fees.—The worthless check unit of the special services division of the district attorney’s office may charge a service charge in the stated amount in the following circumstances:

“I. In those cases where the accused has been notified by mail that a warrant has been issued and same may be criminally prosecuted unless he voluntarily surrenders himself to the worthless check unit within 10 business days from the date of said notice, and if such an accused voluntarily surrenders himself pursuant to said notice within the aforesaid 10 business days, the worthless check unit may collect the sum of \$40.00 from the accused as a service charge for processing said check. This service charge shall be increased in the same dollar amount as the court cost charged by the district court of said judicial circuit for violations of section 13A-9-13.1 when said court cost shall be increased.

“II. In those cases when the accused does not appear within 10 business days from the date of the notice issued to the accused, or if no restitution agreement is made, or if the accused does not comply with the restitution agreement the case may be prosecuted in accordance with applicable laws and procedures. Upon appearance of said accused in the district or circuit court of said judicial circuit or the equivalent thereof and upon a finding of guilt or a plea of guilty, the court shall order the accused to satisfy an additional service charge equal to 85% of the court cost levied by the court for said offense. This amount shall not be in lieu of, but shall be in addition to, court costs assessed by the district or circuit court for said violation. Further, said service charge is to be paid to the general fund of the county to be disbursed pursuant to this section and shall not decrease any amounts allotted to any county or state agency from the court costs collected by the district or circuit court.

“(ii) Restitution.—Restitution shall be defined as the face amount of any negotiable instrument (in the event of the issuance of a forged or altered instrument, restitution shall be in the amount to which

the instrument was changed or altered), plus any amounts the victim may have been required to pay to a bank as a result of having attempted to process the worthless instrument and the service charge of not more than \$15.00 authorized by sections 13A-9-13.1 through 13A-9-13.3 for the holder of a worthless check.

"I. Upon filing a complaint with the worthless check unit, the victim waives the right to collect restitution directly from the defendant.

"II. Restitution agreements.—After an accused has been sent notification by mail of the warrant issued for his arrest and upon voluntarily surrendering himself to the worthless check unit, the worthless check unit may enter into a restitution agreement with the accused as to the terms by which the accused shall satisfy restitution and fees to the worthless check unit. The terms of said restitution agreements shall be determined on a case by case basis by the worthless check unit, but the duration of any said agreement shall be no longer than a period of six months. No interest may be charged or collected on either restitution or fees charged. Said restitution agreement shall be signed by the accused and must be ratified by the worthless check unit before it is effective. If the accused does not honor each term of the restitution agreement signed by him, the district attorney's office may proceed with the prosecution of the accused as provided by law.

"2. Collection and distribution.

"(i) Restitution.—Restitution shall be collected by the worthless check unit and deposited into an account maintained solely for such purpose. The worthless check unit shall, after a reasonable time for accounting and bookkeeping purposes, disburse to the victim all restitution collected with regard to the original complaint filed.

"(ii) If the victim cannot be located after a reasonable time and upon diligent efforts to locate same, the restitution due said victim shall be deposited into the worthless check fund as herein provided.

"(iii) Fees.—All fees or charges, other than court costs, collected by the worthless check unit in accordance with this section shall be paid to the county treasurer of said county in a fund to be known as the worthless check fund. Sixty-five percent of funds collected pursuant to subsection (a)(2)e1(i)I of this section shall be used and expended by the district attorney to defray the reasonable expenses incurred by the office of the district attorney. The district attorney is hereby authorized to requisition and expend these funds for those purposes. The treasurer of the county shall make disbursements of said funds upon requisition of the district attorney. Provided further this paragraph shall not reduce the amount payable to the district attorney under any local act, specifically Act No. 83-483. Thirty-five

percent of said funds shall be used by the county for the reasonable expenses incurred in the administration of said program. All of the funds collected pursuant to subsections (a)(2)e1(i)II and (a)(2)e1(ii) shall be deposited in the general fund of the county and shall be expended only for the reasonable and necessary expenses of law enforcement.

“(b) This section shall in no way prohibit or preclude the office of the district attorney from proceeding with the prosecution of any violation of section 13A-9-13.1 as provided by applicable law and procedures heretofore enacted.”

**Section 2.** Sections 13A-9-13.1 and 13A-9-13.2, Code of Alabama 1975, as amended, are hereby further amended to read as follows:

“§13A-9-13.1.

“(a) A person commits the crime of negotiating a worthless negotiable instrument if he negotiates or delivers a negotiable instrument for a thing of value and with the intent, knowledge or expectation that it will not be honored by the drawee.

“(b) For the purposes of this section, it is prima facie evidence that the maker or drawer intended, knew or expected that the instrument would not be honored if:

“(1) The maker or drawer had no such account with the drawee at the time the negotiable instrument was negotiated or delivered, as determined according to section 7-3-503(2); or

“(2) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after delivery, and the maker or drawer shall not have paid the holder thereof the amount due thereon, together with a service charge of not more than \$15.00, within 10 days after receiving written notice from the holder of the instrument that payment was refused upon such instrument, as provided in section 13A-9-13.2; or

“(3) Notice that payment was refused is mailed by certified or registered mail and is returned undelivered to the sender, when such notice is mailed within a reasonable time after dishonor to the address printed on the instrument or given by the maker or drawer at the time of issuance of the instrument.

“(c) Negotiating a worthless negotiable instrument is a Class A misdemeanor.

“(d) The definition of ‘negotiable instrument’ in section 7-3-104 applies to this section and sections 13A-9-13.2 and 13A-9-13.3.

“(e) The definition of ‘negotiation’ in section 7-3-202 applies to this section and sections 13A-9-13.2 and 13A-9-13.3.

“(f) The definition of ‘delivery’ in section 7-1-201(14) applies to this section and sections 13A-9-13.2 and 13A-9-13.3.

“§13A-9-13.2.

“For purposes of section 13A-9-13.1:

“(1) Notice mailed by certified or registered mail, evidenced by return receipt, to the address printed on the instrument or given at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the person making, drawing, uttering or delivering said instrument.

“(2) The form of notice shall be substantially as follows:

“‘This statutory notice is provided pursuant to section 13A-9-13.2 of the Alabama Code. You are hereby notified that a check or instrument numbered . . . . ., apparently issued by you on . . . . . (date), upon . . . . . (name of bank), and payable to . . . . ., has been dishonored. Pursuant to Alabama law, you have 10 days from receipt of this notice to tender payment of the full amount of such check or instrument plus a service charge of not more than \$15.00, the total amount due being \$ . . . . . Unless this amount is paid in full within the specified time above, the holder of such check or instrument may assume that you delivered the instrument with intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the proper authorities for criminal prosecution.’

“(3) Any party holding a worthless negotiable instrument and giving notice in substantially similar form to that provided in subdivision (2) of this section shall be immune from civil or criminal liability for the giving of such notice and for proceeding under the forms of such notice.”

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:48 P.M.

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Act No. 89-808

S. 595—Senator Bedford

### AN ACT

To amend Section 12-17-140 of the Code of Alabama 1975, relating to qualifications for supernumerary status for circuit clerks and registers, so as to provide additional qualifications for supernumerary circuit register status.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-140 of the Code of Alabama 1975, is hereby amended to read as follows:

“§12-17-140.

“(a) Any clerk or register of the circuit court, serving on October 1, 1976, or clerk elected or appointed in any county of the state of Alabama:

“(1) Who has served as much as five years as a circuit clerk or register and who has become permanently, physically or mentally unable to carry out the duties of the office on a full-time basis, proof of such disability being made by a certificate of three reputable physicians;

“(2) Who has served for 12 years as a circuit clerk or register and has reached or passed the age of 65 years;

“(3) Who has served for 15 years as circuit clerk or register and who is not less than 62 years of age; or who has served as such for more than 15 years and has attained the age of 62, less one year for each year of service in excess of 15;

“(4) Who has served continuously for 10 years as circuit clerk or register and who is not less than 70 years of age; or

“(5) Who has served for not less than 18 years or three full terms as a circuit clerk or register; may elect to become a supernumerary clerk of the circuit court or supernumerary register of the circuit court of the county in which said clerk or register has served as such official by filing a written declaration to that effect with the administrative director of courts at least 30 days prior to the time said clerk or register desires to become a supernumerary official. If the administrative director of courts shall find that such applicant is qualified under any of subdivisions (1) through (5) of this section, a commission as supernumerary clerk of the circuit court or register of such court for the county in which he has served shall thereupon be issued to such applicant by the secretary of state.

“The provisions of this division shall apply only to those persons who are 55 years of age or older and who are in office on October 1, 1976, or who may thereafter become eligible under its provisions.

“(b) Any circuit clerk who is serving as such clerk on October 1, 1976, and who has served for at least 23 years on said date shall be eligible for supernumerary status at any time notwithstanding any provisions of this title, provided he has paid contributions into the supernumerary fund for the maximum number of years required by this division.

“(c) Any register of the circuit court who has served for at least 23 years shall be eligible for supernumerary status at any time notwithstanding any provisions of this title, provided he has paid contributions into the supernumerary fund for the maximum number of years required by this division.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:49 P.M.

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Act No. 89-809

S. 18—Senator Manley

### AN ACT

Relating to municipal courts; to amend Section 12-14-5, Code of Alabama 1975, which section relates to the bail of persons charged with violations of municipal ordinances and to amend Section 12-14-70, Code of Alabama 1975, as amended, which section relates to appeals to the circuit court from judgments of municipal courts; and to establish an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-14-5, Code of Alabama 1975, is hereby amended to read as follows:

“§12-14-5.

“Municipal judges shall admit to bail any person charged with violation of any municipal ordinance by requiring an appearance bond, with good security, to be approved by the respective municipal judges or their designees, in an amount not to exceed \$1,000.00, and may, in their discretion, admit to bail such person on a personal recognizance bond, such bonds to be conditioned on the appearance of such person before the judge on a day named therein to answer the charges preferred against him. The municipal judge may waive an appearance bond upon satisfactory showing that the defendant is indigent or otherwise unable to make bond.”

**Section 2.** Section 12-14-70, Code of Alabama 1975, as amended, is further amended to read as follows:

“§12-14-70.

“(a) All appeals from judgments of municipal courts shall be to the circuit court of the circuit in which the violation occurred for trial de novo.

“(b) The municipality may appeal within 60 days, without bond, from a judgment of the municipal court holding an ordinance invalid.

“(c) A defendant may appeal in any case within 14 days from the entry of judgment by filing notice of appeal and giving bond, with or without surety, approved by the court or the clerk in an amount not more than twice the amount of the fine and costs, as fixed by the court, or in the event no fine is levied the bond shall be in an amount not to exceed \$1,000.00, as fixed by the court, conditioned upon the defendant's appearance before the circuit court. The municipal court may waive appearance bond upon satisfactory showing that the defendant is indigent or otherwise unable to provide a surety bond. If an appeal bond is waived, a defendant sentenced to imprisonment shall not be released from custody, but may obtain release at any time by filing a bond approved by the municipal court. If defendant is not released, the prosecutor shall notify the circuit clerk, and the case shall be set for trial at the earliest practicable time.

“(d) When an appeal has been taken, the municipality shall file the notice and other documents in the court to which the appeal is taken within 15 days, failing which the municipality shall be deemed to have abandoned the prosecution, the defendant shall stand discharged and the bond shall be automatically terminated.

“(e) Upon trial or plea of guilty in the circuit court on appeal, the court may impose any penalty or sentence which the municipal court could have imposed.

“(f) Upon failure of an appellant to appear in the circuit court when the case is called for trial, unless good cause for such default is shown, the court shall dismiss the appeal and upon the expiration of 30 days from such date, unless the dismissal is set aside, the circuit clerk shall return the file, with a copy of the order of dismissal, to the clerk of the court from which the appeal was taken and the judge of such court may enter judgment of default on the appeal bond by utilizing the procedures set forth in section 15-13-81. The circuit court may, on motion of the defendant made within 30 days of the order of dismissal, set aside the dismissal and other orders and reinstate the appeal on such terms as the court may prescribe, for good cause shown by defendant.

“(g) Upon receipt of notice of dismissal of an appeal, the municipal court may issue a warrant for arrest of the defendant, who may also be arrested without a warrant as an escapee. Upon arrest, the defendant shall be delivered to the municipal authorities and punished in accordance with the judgment of the municipal court.

“(h) If a judgment is entered against a defendant on appeal, the circuit court shall remand the defendant to the municipal authorities



for punishment in accordance with the judgment of the circuit court, unless, when the judgment is for fine and costs only, the judgment is paid or a judgment is conferred therefor in favor of the municipality with sureties or as otherwise provided for convictions under state law.

“(i) Upon receipt of payment of fines, forfeitures and costs upon appeals, the clerk of the circuit court shall within 30 days pay 90 percent of such fines and forfeitures and 10 percent of the costs to the treasurer of the municipality. The circuit clerk shall be liable on his bond for such fines and costs plus a penalty of five percent per month for default in such payments.”

**Section 3.** This amendatory act shall become effective on the first day of the second month after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:20 P.M.

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Act No. 89-810

S. 36—Senators Hale and Bedsole

### AN ACT

To establish, create, and provide for an annual “Free Fishing Day” for calendar year 1989 and each year thereafter; to designate said day for calendar year 1989; to provide for the designation of said day in each future calendar year; to provide for certain exemptions on said day from certain fishing license requirements under Sections 9-11-53, 9-11-54, 9-11-55, and 9-11-56 of the Code of Alabama 1975, as amended from time to time.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** An annual “Free Fishing Day” is hereby established and created. Saturday, June 10, 1989, is hereby designated as “Free Fishing Day” for calendar year 1989. For each calendar year thereafter, the Commissioner of the Department of Conservation and Natural Resources shall, not later than February 1 of each year, and without necessity of promulgation of regulation, designate the date of the annual “Free Fishing Day” for that calendar year. During the daylight hours on said day, those persons normally eligible to be and required to be licensed for fishing pursuant to Sections 9-11-53, 9-11-54, 9-11-55, and 9-11-56, Code of Alabama 1975, as amended from time to time, shall be permitted to engage in those otherwise lawful fishing activities for which the licenses under Sections 9-11-53, 9-11-54, 9-11-55, and 9-11-56, would otherwise be required, without said licenses.

**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:21 P.M.

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Act No. 89-811

S. 87—Senator Manley

### AN ACT

To amend and revise the notice of appointment of personal representatives and to amend and clarify the nonclaim statute by amending Ala. Code Sections 43-2-60, 43-2-61 and 43-2-350 (1975).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 43-2-60 of the Code of Alabama (1975) is amended to read as follows:

“The Personal Representative must give notice of the appointment, stating the name of the deceased, the day on which letters were granted, by what court, stating the county and notifying all persons having claims against the estate to present the same within the time allowed by law or that the same will be barred. The notice of appointment,

(1) For actual notice as required in Section 43-2-61 (i), must be given as soon as practicable after a creditor’s identification is known; and

(2) For publication notice as required in Section 43-2-61(ii), must be given within thirty days from grant of letters.”

**Section 2.** Section 43-2-61 of the Code of Alabama (1975) is hereby amended to read as follows:

“Notice, as prescribed in Section 43-2-60, must be given:

(1) By first-class mail addressed to their last known address, or by other mechanism reasonably calculated to provide actual notice, to all persons, firms, and corporations having claims against the decedent, who are known or who are reasonably ascertainable by the personal representative within six months from the grant of letters; and

(2) By publishing a notice once a week for three successive weeks in a newspaper of general circulation published in the county in which the letters were granted or, if none is published in the county, in the one published nearest to the courthouse thereof or in an adjoining county.

**Section 3.** Section 43-2-350 of the Code of Alabama (1975) is hereby amended to read as follows:

(a) All claims against the estate of a decedent, held by the personal representative of the decedent or by an assignee or transferee of the personal representative, or in which the personal representative has an interest, whether due or to become due, must be presented within six months after the grant of letters, or within five months from the date of the first publication of notice, whichever is the later to occur, provided however, that any creditor entitled to actual notice as prescribed in section 43-2-61 must be allowed thirty days after notice within which to present the claim, by filing the claims, or statement thereof, verified by affidavit, in the office of the judge of probate, in all respects as provided by section 43-2-352. All claims not so presented and filed are forever barred, and the payment or allowance thereof is prohibited. But this subsection shall not apply to claims of personal representatives to compensation for their services as such, nor to sums properly disbursed by them in the course of administration.

(b) All claims against the estate of a decedent, other than the claims referred to in subsection (a) of this section, whether due or to become due, must be presented within six months after the grant of letters, or within five months from the date of the first publication of notice, whichever is the later to occur, provided however, that any creditor entitled to actual notice as prescribed in section 43-2-61 must be allowed thirty days after notice within which to present the claim, and if not presented within that time, they are forever barred and the payment or allowance thereof is prohibited. Presentation must be made by filing a verified claim or verified statement thereof in the office of the judge of probate of the county in which the letters are granted. Claims which have not been filed and which are liens against the property of the decedent may be paid by the personal representative to protect the assets of the estate. The provisions of this subsection do not apply to heirs or devisees claiming as heirs or devisees.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

**Section 5.** Severability.

If any provisions of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other

provisions or applications of this act which can be given effect without the invalid provision or application, and to the end provisions of this act are severable.

Approved May 16, 1989

Time: 5:22 P.M.

Act No. 89-812

S. 148—Senator deGraffenried

### AN ACT

To amend sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975, which relate to the granting of certificates to certified public accountants and the renewal, suspension, and revocation of licenses of certified public accountants, so as to provide further for said certificates and licenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975, are hereby amended to read as follows:

“§34-1-4.

“(a) The certificate of certified public accountants shall be granted by the board to any person:

“(1) Who is a citizen of the United States or has duly declared his intent to become such citizen;

“(2) Who has attained the age of 19 years;

“(3) Who is of good moral character;

“(4) Who meets the following educational requirements:

“a. A person must have earned a college degree from a four-year college or university accredited by a regional accreditation board such as the Southern Association of Colleges and Universities, with a concentration in accounting or what the board determines to be substantially the equivalent of a concentration in accounting. Persons who, on the effective date of this act, have previously sat for the uniform written CPA examination will be considered to meet these qualifications;

“b. After January 1, 1995, any person who has not previously sat for the uniform written CPA examination must have completed a total of 150 semester hours or 225 quarter hours of postsecondary education, including a baccalaureate degree at a college or university accredited by a regional accreditation board such as the Southern Association of Colleges and Universities. The total education program

must include an accounting concentration as defined by the board and such other course work as the board may require by regulation; and

“(5) a. Who has successfully passed a uniform written examination, administered by the board, in accounting, in auditing, in business law, and in such other related subjects as the board may deem necessary to maintain the highest standard of proficiency in the profession of public accounting.

“b. After January 1, 1995, in order to be eligible for an initial sitting for the uniform written CPA examination, a person must have completed a total of 150 semester hours or 225 quarter hours of education, including a baccalaureate degree at a college or university accredited by a regional accreditation board such as the Southern Association of Colleges and Universities.

“(b) (1) Examinations provided for herein shall be given by the board as often as may be necessary in the opinion of the board, but not less frequently than twice each year. The board shall be required after each examination to notify applicants of the results.

“(2) The board shall have power and authority to issue certificates under the signature and the official seal of the board, as provided in this chapter.

“(c) The board shall charge each candidate an application fee for the uniform written CPA examination not in excess of \$100.00. Examination and reexamination fees shall be charged by the board in amounts determined by it for each subject in which a candidate is examined. The applicable fees shall be paid to the board by the candidate at the time he applies for examination or reexamination.

“(d) Persons who, on the effective date of this act, held certified public accountant certificates issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to all provisions of this chapter; and such certificates issued shall, for all purposes, be considered certificates issued under this chapter and subject to the provisions hereof.

“(e) The board may, in its discretion, waive the examination under subdivision (5) of subsection (a) of this section, and may issue a certificate as a certified public accountant to any person possessing the qualifications specified in subdivisions (1) through (3) of subsection (a), and what the board determines to be substantially the equivalent of the applicable qualifications under subdivision (4) of subsection (a), who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of any state.

“(f) The board may make appropriate regulations to govern the issuance of a certificate as a certified public accountant to the holder of a certificate, license, or degree which is then in full force and effect in any foreign country constituting a recognized qualification for the practice of public accounting in such a country, comparable to that of a certified public accountant of this state.

“§34-1-11.

“(a) Permits to engage in the practice of public accounting in this state shall be issued by the board to a holder of a certificate of certified public accountant issued under section 34-1-4 and to a person registered under section 34-1-8 who shall have furnished evidence satisfactory to the board of compliance with the requirements of subsection (c) of this section, and who: (1) is a citizen of the United States or has declared his intent to become a citizen; and (2) has attained the age of 19 years; and (3) is of good moral character; and (4) meets the experience requirements set forth in subsection (e) of this section. Permits to engage in the practice of public accounting in this state also shall be issued by the board to persons, partnerships, professional associations or professional corporations registered under sections 34-1-5, 34-1-6 and 34-1-9; provided, that all offices of such certificate holders or registrants are maintained and registered as required under section 34-1-10. There shall be an annual permit fee for each certificate holder under section 34-1-4 and each registrant under section 34-1-8 in an amount to be determined by the board. All permits shall expire on the last day of September of each year and may be renewed annually for a period of one year. The application for renewal and annual renewal fee must be filed with this board no later than December 31 following the expiration date.

“(b) (1) Notwithstanding the provisions of preceding subsection (a), a certified public accountant or public accountant registered under this act who is not engaged in the practice of public accounting may request the board, in writing, to place his name on the board's inactive roll, thereby granting him inactive status and protecting his right to obtain a permit to practice pursuant to preceding subsection (a) at such later time as he may wish to become engaged in the practice of public accounting.

“(2) If, upon receipt of such notification, the board determines that the certified public accountant or public accountant is not engaged in public accounting, the certified public accountant or public accountant will be permitted to retain his initial registration or certificate by paying an annual registration fee in an amount as the board shall, from time to time, determine. If a certified public accountant or public accountant who has elected inactive status wishes to reenter the practice of public accountancy, he shall make

application to the board for an annual permit to practice. The board, in its rules and regulations, shall specify the number of hours of continuing education the applicant must obtain before he regains active status to ensure his competency to practice public accounting.

“(c) Every application for renewal of an annual permit to practice by any person who holds a certificate as a certified public accountant or who is a registrant under section 34-1-8 shall be accompanied or supported by such evidence as the board may prescribe of satisfaction of its continuing education requirements during the preceding year. Failure by an applicant for renewal of an annual permit to furnish such evidence shall constitute ground for revocation, suspension or refusal to renew such permit in a proceeding under section 34-1-12, unless the board, in its discretion, shall determine such failure to have been due to reasonable cause. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education. In issuing rules, regulations and individual orders in respect of requirements of continuing education, the board, in its discretion, may, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations; may prescribe for content, duration and organization of courses; shall take into account the accessibility by applicants to such continuing education as it may require and any impediments to interstate practice of public accountancy which may result from difference in such requirements in other states; and may provide for relaxation or suspension of such requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy, and for instances of individual hardships.

“(d) In the event a certified public accountant or public accountant shall fail to apply for an annual permit to practice or to be placed on the board's inactive roll within: (1) one year from the expiration date of the permit to practice last obtained or renewed pursuant to preceding subsection (a); (2) one year from the expiration date of the last annual renewal of his certificate pursuant to preceding subsection (b); or (3) one year from the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was ever issued to him under the preceding subsection (a) or his name was never placed on the board's inactive roll under preceding subsection (b), it shall deprive him of the right to apply for a permit or inactive status, and shall constitute ground for revocation or suspension of the holder's certificate, unless the board, in its discretion, determines such failure to have been due to reasonable cause. In such case, the board may, in its discretion, impose a reinstatement fee not to exceed \$100.00, plus the total annual registration fees which the certified public accountant or public accountant would

have paid under preceding subsection (b) during the period when neither a permit nor inactive status was maintained.

“(e) The experience requirement shall be two years’ experience in the practice of public accounting as defined by the board’s rules and regulations.

“§34-1-12.

“After notice and hearing as provided in section 34-1-14, the board may revoke, or may suspend for a period not to exceed three years, any certificate issued under section 34-1-4, or any registration granted under sections 34-1-5, 34-1-7 or 34-1-8, or may revoke, suspend or refuse to renew any permit issued under section 34-1-11 or may censure the holder of any such permit for any one or any combination of the following causes:

“(1) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accounting under this chapter.

“(2) Dishonesty, fraud or gross negligence in the practice of public accounting.

“(3) Violation of any of the provisions of section 34-1-16.

“(4) Violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter.

“(5) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.

“(6) Conviction of a felony under the laws of any state or of the United States.

“(7) Cancellation, revocation, suspension or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any cause other than failure to pay an annual registration fee in such other state.

“(8) Suspension or revocation of the right to practice before any state or federal agency.

“(9) Failure to become a citizen of the United States within six years by any person not a citizen of the United States when he or she received a certificate as a certified public accountant or was registered as a public accountant under this chapter.

“(10) Failure to apply for an annual permit to practice or to be placed on the board’s inactive roll within:

“a. One year from the expiration date of the permit to practice last obtained or renewed pursuant to section 34-1-11(a);



“b. One year from the expiration date of the last annual renewal of his certificate pursuant to section 34-1-11(b); or

“c. One year from the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was ever issued to him under section 34-1-11(a) or his name was never placed on the board’s inactive roll under section 34-1-11(b), unless such a failure shall have been excused by the board under and pursuant to section 34-1-11.

“(11) Conduct discreditable to the public accounting profession.

“(12) Failure of a certificate holder or registrant to furnish evidence of satisfaction of requirements of continuing education as required by the board under and pursuant to section 34-1-11 or to meet any conditions in respect of continuing education which the board may have ordered with respect to such certificate holder under that section.

“(13) Failure to comply with the provisions and requirements of the board’s practice review program.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:23 P.M.

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Act No. 89-813

S. 284—Senator Manley

## AN ACT

Relating to the standards for fiduciary investment and management by adding a new Section 19-3-120.2 to Title 19, Chapter 3, Code of Alabama 1975, so as to provide that standards for fiduciary investments and management to be that of a prudent person; that the propriety of an investment decision is to be determined by what a fiduciary knew or should have known at the time of the decision; that a fiduciary is entitled to rely in good faith upon the express provisions of a governing instrument; that a fiduciary may hold property received by it in an account at its inception or subsequently added to it and that such property may include stock in the fiduciary if a corporation and stock in any corporation controlling, controlled by or under common control with the fiduciary; that a court may permit a fiduciary to deviate from the terms of a governing instrument; and that the provisions of this Act apply to all fiduciary relations now existing or hereafter created; to provide for severability of the provisions of this Act; to provide for repeal or amendment of conflicting laws; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 19-3-120.2 is hereby added to Title 19, Chapter 3, Code of Alabama 1975, to read as follows:

“Section 19-3-120.2. Standards for fiduciary investment and management.

(a) When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing property for the benefit of another, a trustee, executor, administrator, guardian, conservator or other fiduciary shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the account. In making investment decisions, a fiduciary shall consider the role that the investment plays within the account's overall portfolio of assets and may consider the general economic conditions, the anticipated tax consequences of the investment, the anticipated duration of the account and the needs of the beneficiaries of the account.

(b) The propriety of an investment decision is to be determined by what a fiduciary knew or should have known at the time of the decision about the inherent nature and expected performance of the investment, the attributes of the account portfolio, the general economy, and the needs and objectives of the beneficiaries of the account as they existed at the time of the investment decision.

(c) Any fiduciary acting under a governing instrument shall not be liable to anyone whose interests arise from such instrument for the fiduciary's good faith reliance on the express provisions of such instrument. The standards set forth in this section may be expanded, restricted or eliminated by express provisions in a governing instrument.

(d) In the absence of an express provision to the contrary in a governing instrument, a fiduciary may without liability continue to hold property received into an account at its inception or subsequently added to it or acquired pursuant to proper authority if and as long as the fiduciary, in the exercise of good faith and of reasonable prudence, may consider that retention to be in the best interest of the account or in furtherance of the goals of the governing instrument. Such property may include, among other things, stock in the fiduciary if a corporation, and stock in any corporation controlling, controlled by or under common control with the fiduciary.

(e) Nothing in this section shall abrogate or restrict the power of the appropriate court in a proper case to direct or permit a fiduciary to deviate from the terms of a governing instrument regarding the acquisition, investment, reinvestment, exchange, retention, sale or management of property.

(f) The provisions of this section shall apply to all fiduciary relations now existing or hereafter created, but only to the fiduciary actions or inactions occurring after the effective date hereof."

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby amended or repealed to the extent of such conflict as necessary to permit the full effectiveness of this Act.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:31 P.M.

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Act No. 89-814

S. 271—Senators Dixon and Manley

### AN ACT

To amend Section 37-6-21 of the Code of Alabama of 1975 to establish disclosure requirements for offers to purchase or lease a substantial portion of a cooperative's property, to require transmittal of such offers to other cooperatives, to establish exceptions to the disclosure requirements, prohibit untrue statements in disclosure statements and make offers and purchases in violation of the disclosure requirements void, unenforceable and rescindable.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-6-21 of the Code of Alabama of 1975 is hereby amended to read as follows:

"Section 37-6-21. Sale, lease or encumbrance of property.

"A cooperative may not sell or lease all or any substantial portion of its property, unless such sale or lease is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two thirds of all the members of the cooperative and unless the notice of such sale or lease shall have been contained in the notice of the meeting. A cooperative may mortgage, by mortgage or deed of trust, pledge or otherwise encumber, to secure any indebtedness of the cooperative, all or any portion of its property, assets and the revenues and income therefrom, from time to time when authorized by the affirmative vote of a majority of its members at a duly held meeting after proper notice thereof. The board of trustees of a cooperative, without further authorization of the members thereof,

shall have full power and authority to authorize from time to time the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, all or any portion of the property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether acquired or to be acquired and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the cooperative within the limit authorized by the members to the United States, of America, any instrumentality or agency thereof, to any financing institution organized on a cooperative plan for the purpose of financing its members' programs, projects and undertakings, in which the cooperative holds membership or to any bank or other financial institution lending money or credit to the cooperative."

"Prior to the making of any offer by any person or entity to acquire or lease all or a substantial portion of the assets or property of a cooperative, the person or entity making such offer shall, not less than five (5) business days prior to such offer becoming effective and being communicated to members of the cooperative, file with each member of the Board of Trustees of the cooperative and with its General Manager a disclosure statement as contemplated by Section 14 of the United States Securities Exchange Act of 1934 and rules and regulations promulgated by the United States Securities Commission thereunder on Schedule 14D-1. Comprehensive financial statements on the offeror and all persons who may own five (5%) percent or more of the stock or other interests in the offeror shall be included with such schedule. If there is any material change in any of the information set forth in such disclosure statement, the person or entity making the offer shall promptly file an amendment to the disclosure statement with each of the trustees and the general manager of the cooperative. References in Schedule 14D-1 to securities and equity owners shall for the purposes of this section, mean members of the cooperative and their votes.

"Within ten (10) days from the receipt of the disclosure statement or any amendment thereto, the Board of Trustees of the cooperative shall cause all information concerning the offer and copies of the disclosure statement to be transmitted to every other cooperative that is organized under this Chapter 6 of Title 37 with an invitation inviting them to submit competing or alternative proposals, including proposals to merge or consolidate with the cooperative. Such other cooperatives shall be given at least ninety (90) days from the date they receive the information required by this paragraph to make such proposals and no meeting of members shall be called or noticed to consider any offer until after the expiration of such deadline.

"The disclosure statement and other information required to be submitted to the Board of Trustees of the cooperative shall not

contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

“Compliance with the provisions of this section shall not be required if the sale or lease is to be with one or more other cooperatives which are organized under this chapter and the effect thereof will be essentially the same as if a merger or consolidation were being consummated with one or more other cooperatives. This section shall also not apply if the proposed sale is in the nature of an involuntary sale, such as condemnation, or a sale required or authorized by electric utility territorial legislation now existing or hereafter adopted, or if the property to be sold is no longer used or useful in conducting the business of the cooperative.

“Failure to provide the disclosure statement and any and all information required therein shall cause the offer made in violation of the disclosure requirements hereof to be void and unenforceable and shall cause any purchase or transaction taken in pursuance or as a result thereof between the cooperative and the offeror to be ineffective and rescindable within five (5) years after consummation at the option of the cooperative.”

**Section 2.** The provisions and applications of this Act shall be deemed to be severable and a declaration of invalidity as to any other part or as to any application thereof to any person or circumstance shall not render invalid the parts or applications which remain.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:32 P.M.

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Act No. 89-815

S. 215—Senator Foshee

## AN ACT

To amend Section 27-7-5, Code of Alabama 1975, so as to exempt from examination requirements those applicants whose license is limited to personal property insurance sold to borrowers or debtors under a master group policy issued to a creditor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 27-7-5, Code of Alabama 1975, is hereby amended to read as follows:

“§27-7-5.

“For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist any agent, broker, solicitor, managing general agent or service representative license for and on behalf of any natural person except in compliance with this chapter, or as to any individual not qualified therefor as follows:

“(1) Must be 19 years or more of age, or be an individual whose disabilities of minority have been removed; except, that a managing general agent license may also be issued to a firm or corporation;

“(2) Must be a citizen of the United States of America;

“(3) Must be domiciled in and have been a bona fide resident of this state for not less than six months preceding the date of application for the license; except that this provision does not apply as to managing general agents or service representatives. The residence and domiciliary requirement may be waived upon determination by the commissioner that such waiver would be in the public interest and would prevent a hardship, if the applicant for a license:

“a. Is a bona fide resident of and maintains an established office in a populous community lying partly in Alabama and partly in an adjoining state, which is composed of two or more contiguous cities, towns or villages not completely separated by a natural boundary;

“b. Designates in writing the commissioner of insurance as his agent or attorney for acceptance of personal service of process in all actions involving matters connected with or arising out of his insurance business conducted in Alabama;

“c. Agrees to keep like records, make similar reports and permit inspection of his records to the same extent as other licensees under this section; and

“d. If the adjoining state by law or administrative action accords residents of Alabama a like waiver, benefit or privilege;

“(4) Must be of good moral character and not have been convicted of a felony nor of any crime involving moral turpitude;

“(5) Must intend to and, commencing immediately after issuance of such a license, shall, during the existence of the license, actively engage as to the general public in the business permitted under this license;

“(6) If to be licensed as a broker, must have had experience either as an agent, solicitor, adjustor, managing general agent, broker

or as an employee or special representative of an insurer, or insurers, or special education or training of sufficient duration and extent reasonably necessary for competence in fulfilling the responsibilities of a broker;

“(7) Must not use, or intend to use, the license principally for the purpose of procuring insurance of his own risks or interests, or those of his relatives to the second degree or of his firm, corporation or employer;

“(8) Must attend a pre-qualification course consisting of 40 classroom hours or equivalent individual instruction on the general principles of insurance, such course to be taught only by those educational institutions, junior or senior colleges, technical colleges, trade schools, insurance companies or insurance trade organizations which hold written authority from the commissioner to issue certificates of completion;

“a. Each such authority holder must apply annually for the continued authority to issue certificates under rules and regulations to be prescribed by the commissioner;

“b. Prior to writing the designated examination for license, the applicant must furnish a certificate of completion of the aforesaid pre-qualification course from the authorized educational institution, insurance company or insurance trade organization;

“c. All applicants under this chapter who are holders of the professional designation Chartered Property Casualty Underwriter (CPCU) or Certified Insurance Counselor (CIC) or such other professional insurance designations as the commissioner may prescribe by regulation shall be deemed to have completed the pre-qualification course as prescribed in this subdivision;

“d. All applicants for license to transact only the following kinds of insurance shall be exempt from the requirements of this subdivision:

- “1. automobile physical damage insurance,
- “2. industrial fire (commonly known as debit fire) insurance, or
- “3. physical damage coverage on household goods;

“e. An applicant who has been licensed under a like license in another state within 12 months prior to his application for a license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in such other state as to the applicant's license and good standing in such state shall be exempt from the requirements of subdivision (8). A facsimile signature and seal of the certifying public official will be deemed sufficient.

"f. All agents, brokers, solicitors, managing general agents and service representatives who are lawfully licensed as such immediately prior to the effective date of the 1979 amendment, are exempt from the requirements of this section unless, after such effective date, any such license is permitted to expire or is otherwise terminated and remains out of effect for a period of 24 consecutive months, the exemption from a pre-qualification course shall no longer be applicable.

"(9) Must pass any written examination for the license required under this chapter, except that no examination shall be required of an applicant whose license is limited to acting only as an agent with respect to personal property insurance sold to borrowers or debtors under a master group policy issued to a creditor, if such applicant is a full-time employee of the institution granting the credit."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:33 P.M.

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Act No. 89-816

H. 1065—Reps. White (G) and Starkey

### AN ACT

To provide for a supplemental appropriation from the Alabama Special Educational Trust Fund to the Department of Education for the Hemophilia Program for the fiscal year ending September 30, 1989.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated from the Alabama Special Educational Trust Fund to the Department of Education for the fiscal year ending September 30, 1989, the sum of \$400,000 to be used for the Hemophilia Program. There is also hereby conditionally appropriated the sum of \$200,000 based upon availability of funds, recommendation of finance director, and approval of Governor. Funds will be disbursed based on a report filed with the director of finance supported by such documentation as may be deemed appropriate by the director attesting to the actual amount of usage, unit cost and cost of related supplies. The appropriation herein shall be in addition to any and all other funds heretofore or hereafter appropriated to the Department of Education. The appropriation shall not be used for any indirect or administrative costs.



**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 5:34 P.M.

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Act No. 89-817

H. 234—Rep. Harper

### AN ACT

To make an appropriation to the Commission on Physical Fitness for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated to the Commission on Physical Fitness for the fiscal year ending September 30, 1990, the sum of three hundred ten thousand nine hundred fifty dollars (\$310,950) out of the funds in the Alabama Special Educational Trust Fund and there is also hereby appropriated the Commission's Federal and Local Funds.

Of the above appropriation to the Commission on Physical Fitness, \$30,000 shall be expended for the Alabama Sport Festival.

**SECTION 2.** The above appropriation is made for educational purposes which shall include but shall not be limited to maintaining liaison with the State Department of Education, boards of education and private and parochial schools; advising on such programs of physical fitness; promoting physical fitness education for the mentally retarded and physically handicapped and providing for physical educational facilities.

**SECTION 3.** The Commission on Physical Fitness is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1990.

**SECTION 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**SECTION 5.** This Act shall become effective on October 1, 1989.

Approved May 16, 1989

Time: 5:35 P.M.

Act No. 89-818

H. 224—Reps. Harper and Cosby

### AN ACT

To make an appropriation for the support and maintenance of Child Advocacy Centers for the fiscal year ending September 30, 1990 and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated the sum of three hundred fifty thousand dollars (\$350,000) from the State General Fund to the Child Advocacy Centers for the fiscal year ending September 30, 1990. Said appropriation is to be used for the support and maintenance of said centers as follows:

1. Prescott House—Birmingham ..... \$50,000
2. National Children's Advocacy Center, Inc.—  
Huntsville ..... \$50,000
3. The Child Advocacy Center, Inc.—Mobile ..... \$50,000
4. Montgomery Child Protection and Advocacy Center,  
Inc. .... \$50,000
5. Tuscaloosa Children's Center, Inc. .... \$50,000
6. Bessemer Cut-off Advocacy Center ..... \$50,000
7. Care House—Bay Minette ..... \$50,000

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1989-90, an operations plan for fiscal year 1988-89 and an audited financial statement for all operations during fiscal year 1987-88 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1988-90 funds following receipt of these reports.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective on October 1, 1989.

Approved May 16, 1989

Time: 5:36 P.M.

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Act No. 89-819

H. 201—Reps. Harper and White (G)

AN ACT

To make an appropriation for the support and maintenance of the Marion Military Institute for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of four hundred seventeen thousand eight hundred eighty-nine dollars (\$417,889), out of the funds in the Alabama Special Educational Trust Fund, to the Marion Military Institute located at Marion, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:37 P.M.

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Act No. 89-820

H. 202—Reps. Harper and White (G)

AN ACT

To make an appropriation for the support and maintenance of the Lyman Ward Military Academy for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of one hundred ninety-five

thousand fourteen dollars (\$195,014), out of the funds in the Alabama Special Educational Trust Fund, to the Lyman Ward Military Academy located at Camp Hill, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:38 P.M.

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Act No. 89-821

H. 204—Reps. Harper and White (G)

### AN ACT

To make an appropriation for the support and maintenance of the Talladega College for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of three hundred ninety thousand thirty-one dollars (\$390,031), out of the funds in the Alabama Special Educational Trust Fund, to the Talladega College located at Talladega, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:39 P.M.

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Act No. 89-822

H. 206—Reps. Harper and White (G)

## AN ACT

To make an appropriation for the support and maintenance of the Coosa Valley Medical Center School of Nursing for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of ninety-four thousand two hundred seventy-six dollars (\$94,276), out of the funds in the Alabama Special Educational Trust Fund, to the Coosa Valley Medical Center School of Nursing located at Sylacauga, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:40 P.M.

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Act No. 89-823

H. 220—Reps. Harper and White (G)

## AN ACT

To make an appropriation for the support and maintenance of the Walker County Junior College for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of five hundred one thousand four hundred sixty-eight dollars (\$501,468), out of the funds in the Alabama Special Educational Trust Fund, to the Walker County Junior College located at Jasper, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:41 P.M.

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Act No. 89-824

H. 275—Reps. Holley, Fuller, Poole,  
Layson, Wright, Moon and  
Knight

### AN ACT

To require the Director of the Alabama Department of Environmental Management to prepare a State Solid Waste Management Plan; to create a Solid Waste Management Advisory Committee to advise on the development of said plan; to require cities and counties to develop and adopt comprehensive solid waste management plans with the assistance of the Department and the State's Regional Planning and Development Commissions; to require the Regional Planning and Development Commissions to develop a regional solid waste management needs assessment; to require the implementation of such plans; and to place a moratorium on the issuance or modification of permits for the construction or operation of certain solid waste management facilities for 24 months after the effective date of this act so that such plans can be developed and implemented.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Findings. The legislature finds that:

(a) The state, its subdivisions and the nation face an emerging crisis in solid waste management;

(b) Proper waste management is an increasingly complex issue involving the need for reducing the volumes of waste requiring disposal, properly managing wastes to reduce the likelihood of both short-term and long-term threat to human health and the environment, and assuring that adequate, environmentally secure, waste management and disposal facilities will be available at reasonable costs to accommodate wastes generated in the state;

(c) Provision for necessary systems, facilities, technology and services for solid waste management and resource recovery is a matter

of important public interest and concern, and action taken in this regard will be for a public purpose and will benefit the public welfare;

(d) Solid waste management problems are potentially statewide in scope and necessitate state and local action through the development and implementation of comprehensive long-range plans for solid waste management which recognize the conditions in the state now and those which can be expected in the foreseeable future, and which serve to assure that the state as a whole and local jurisdictions in particular will meet their long-term solid waste management needs;

(e) Proper planning for solid waste management must include the evaluation of facility sites based on a broad group of factors including, but not limited to, environmental conditions, local needs for waste management, social and economic impacts on the host community, the availability and impact on public services, and the consistency of a proposed facility with any final solid waste management plan;

(f) Proper solid waste management planning also should provide leadership in the application of new and improved methods and processes to reduce the amount of solid waste that must be disposed of and to promote environmentally acceptable and economically sound solid waste management;

(g) The failure or inability to economically recover and recycle materials and energy resources from solid waste results in the unnecessary waste and depletion of natural resources;

(h) The landfill disposal of solid waste, even under the most ideal conditions, has the potential to create long-term pollution and environmental degradation;

(i) Current conditions and pending federal regulatory requirements likely will increase the costs of landfill disposal, prompt the closure of many landfills in the state and likely change the methods of solid waste management in the state away from the present system of management by individual cities and counties and toward the development of larger facilities which must be capable of meeting the needs of several jurisdictions. Given this evolving situation, the legislature concludes that a concerted solid waste management planning program is essential to address the imminent and future needs of the state;

(j) The absence of comprehensive planning will result in the random, haphazard siting of waste disposal services without relation to the actual needs of particular localities in the State, and therefore, to assure that the comprehensive planning required herein is most effective, the permitting of new facilities and the modification of

permits for existing facilities should occur only after the comprehensive plans are in place. In the interim new permits or modifications should be issued only to prevent human health or environmental threats in the particular jurisdiction in the State to be served by the facility;

(k) Publicly owned solid waste management facilities are public resources of limited and finite capacity which the state, as guardian and trustee for its people, has the right and the obligation to preserve for the present and future use of its people; and

(1) The state or local governments, by creating and operating solid waste management facilities are participants in the solid waste facility services market and have entered that market for the purpose of serving the citizens of this state.

**Section 2. Legislative Purpose.** The purpose of this act is to protect the public health and the State's environmental quality and to serve the public by recognizing the responsibilities of units of local government for the orderly management of solid wastes generated within their jurisdictions, and to require that decisions about the management of solid wastes shall be based on comprehensive local, regional and state planning. The terms and obligations of this act shall be liberally construed to achieve remedies intended.

**Section 3. Legislative Intent.** In furtherance of the policies and purposes set forth herein, it is the intent of this legislation:

(a) to develop an integrated system of planning for solid waste management in the state by local governments, regional planning commissions and the department;

(b) to put in place the necessary procedures so that an effective and integrated statewide network of solid waste management facilities may be planned, developed and operated for the benefit of the people of the state;

(c) to assure that solid waste management planning and implementation activities should, to the extent economically feasible, encourage:

(1) reduction of the amount of source waste generated;

(2) source separation and recycling; and

(3) waste processing such as the utilization of a waste-to-energy technology to reduce the volume of waste necessary for land disposal.

(d) to facilitate the siting of solid waste management facilities as required to meet present and projected state and local needs;

(e) to facilitate the reduction of solid waste volumes within the state;



(f) to foster and encourage recycling of solid wastes as an alternative to disposal;

(g) to assure public involvement in the development and implementation of plans for the management of solid wastes;

(h) to encourage private industry to continue to play a key role in the state's solid waste management programs;

(i) to assure that solid waste management facilities and services are provided to state residents in a manner which assures their availability at reasonable costs; and

(j) to assure that the creation, licensing, and operation of landfill solid waste disposal facilities should be limited to what is reasonably required to service the needs of the inhabitants and businesses of this state, having regard for alternative technologies for waste reduction, management and disposal.

**Section 4.** Definitions. All terms used in this act shall be defined as such terms are defined in Section 22-27-2. Code of Alabama 1975, as amended.

**Section 5.** Solid Waste Management Advisory Committee. There is hereby created a twelve member Solid Waste Management Advisory Committee to advise on the development of the Solid Waste Management Plan. The Committee members shall be named as follows: two representatives designated by the governor who shall be private citizens and who shall have been residents of the state for at least two years; two representatives designated by the State Health Officer; two representatives designated by the Board of Directors of the Association of County Commissions of Alabama; two representatives designated by the Board of Directors of the Alabama League of Municipalities; one member of the Alabama Environmental Management Commission selected by the Commission; one representative from the Alabama Chapter of the Government Refuse Collection and Disposal Association selected from its membership by its Board of Directors; President of the Alabama Conservancy; and the Chairman of the Committee who shall be the Chief of the Solid Waste Branch of the Department of Environmental Management. Said Committee shall meet as necessary and shall advise the Director of the Department of Environmental Management regarding the general development of the Solid Waste Management Plan and about such other specific matters as he shall bring to the Committee's attention. Committee members shall serve without pay, but shall be reimbursed by the department for their actual expenses.

**Section 6.** State Solid Waste Management Plan.

The Director of the Alabama Department of Environmental Management, with the advice and consultation of the Solid Waste

Management Advisory Committee, is directed to prepare a State Solid Waste Management Plan. In developing the state plan, the department will seek to achieve the following goals:

(1) That solid waste facilities and management systems are provided for in an orderly manner consistent with the needs and plans of the state and its regions and local governments;

(2) That alternative methods of solid waste management are encouraged as a means of reducing the state's dependence on land-filling.

(3) That all aspects of local, regional and state planning, zoning, population estimates, and economics are taken into consideration; and

(4) That appropriate time schedules are set for the phasing in of the required component parts of the system. Said plan shall be developed in two phases:

(a) The first phase of the plan shall be developed prior to the development of the local plans required herein and shall serve as a guide for the local plans. Within 180 days of the effective date of this act, the department shall complete the first phase of the plan which shall, at a minimum:

(1) Summarize, using available information, the number, location, current usage, and life expectancy of all permitted solid waste management facilities in the State including without limitation all landfills, sanitary landfills, incinerators, transfer stations, processing facilities and resource recovery facilities;

(2) Estimate, using acceptable averaging methods, the general volumes of solid waste expected to be generated in the state per year. After approval of all local plans as provided elsewhere herein, revise and periodically amend these estimates to reflect conditions as reflected in approved local plans;

(3) Establish objectives, methods and goals to encourage solid waste reduction, recycling, reuse, and minimization, such objectives to include proposed regulations or legislation to implement a statewide goal of a twenty-five percent waste reduction and recycling program;

(4) Identify alternative means to provide for waste management and disposal capacity assurance within the State;

(5) Establish criteria to be used by local governments for the identification of potential locations for solid waste management facilities in the jurisdiction or region.

Such criteria shall at a minimum require consideration of the following:

1. The unit of local government's solid waste management needs as identified in its plan;

2. The relationship of any potential location to planned or existing development or the absence thereof, to major transportation arteries and to existing state primary and secondary roads;

3. The relationship of any potential location to existing industries in the jurisdiction or state that generate large volumes of solid waste, or the relationship to areas projected by the state or the local regional planning and development commission for development of industries that will generate large volumes of solid waste;

4. The costs and availability of public services, facilities and improvements which would be required to support a facility in this location and protect public health, safety and the environment;

5. The potential impact a facility in any potential location would have on public health and safety, and the potential that such locations can be utilized in a manner so as to minimize the impact on public health and safety; and

6. The social and economic impacts that any proposed location would have on the affected community, including changes in property values and social or community perception.

(6) Develop forms for use by local governments in completing their own plans.

(b) The second phase of the plan shall be developed as the individual plans of local governments are approved by the department. It shall be the purpose of this phase to incorporate the local plans and to develop a final master plan for solid waste management in the state. This phase shall, at a minimum:

- (1) Revise all estimates and summaries contained in the first phase of the state plan to reflect information contained in the approved local plans;

- (2) Based on estimates of need as developed herein, project waste volume capacity needs annually for a ten year period for the state and for each regional planning commission region and each county therein;

- (3) Based on the information developed in other parts of the plan, estimate and periodically revise said estimate of the number and type of solid waste management facilities which may be required to serve the future needs of the state and its local governments.

- (4) Encourage alternative management techniques for solid wastes;

(5) Encourage the state's city and county jurisdictions to combine their efforts to manage solid wastes more efficiently;

(6) Evaluate existing service areas and evaluate the option of developing waste flow controls within the state;

(7) Develop policies and serve as a source of information for local jurisdictions regarding changing conditions in solid waste management;

(8) Make such other determinations and recommendations as the Director shall deem necessary or appropriate in keeping with the findings and purposes of the legislature set forth herein.

(c) Generally, the state's solid waste management plan shall be subject to amendment and periodic revision. Each periodic revision of the solid waste management plan may include:

(1) A revised estimate of solid waste generation and disposal in the state projected for a 10-year period.

(2) The total amounts of solid waste generated, recycled, and disposed of, and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the plan is revised.

(3) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.

(4) An evaluation of the success of each county or group of counties in meeting the local solid waste reduction goals.

(5) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of this act.

(6) An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.

(7) Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.

(d) At the completion of each phase of development of the state solid waste management plan and each subsequent revision, the plan, as revised shall be adopted by the department as a final regulation in accord with applicable statutory procedures.

#### **Section 7. Regional Planning and Development Commissions.**

(a) Not later than six months from the effective date of this act, each regional planning and development commission in the state

shall prepare and adopt a regional needs assessment evaluating solid waste management needs in their respective regions. This regional needs assessment shall be submitted to the department for information and review and shall be considered by units of local government within the region in the development of their individual plans as required herein. Thereafter, the assessment shall be revised and submitted to the department and local governments in the region annually. The regional needs assessment shall include, at a minimum, the following:

(1) An evaluation of the amount of solid waste generated within the region and the amount of remaining disposal capacity, expressed in years, at each solid waste disposal facility within the region;

(2) An evaluation of the needs of all localities within the district as to the adequacy or inadequacy of solid waste collection, transportation and disposal within those localities;

(3) A projection of the expected population and business growth in the region, including specific estimates of the types of businesses which may be entering and leaving the region and the resulting impact such changes will likely have on waste volumes generated in the region;

(4) An evaluation of the environmental, economic and other relevant factors which would be implicated by acceptance of solid waste from beyond the boundaries of the region.

(b) In addition to the development of and periodic revision of an assessment of the region's solid waste management needs, each regional planning commission shall:

(1) Evaluate, as necessary, the solid waste management needs of all local governments within their regions;

(2) Formulate, as requested, recommendations to local governments on solid waste management issues including the feasibility of joint efforts within the region acting to develop and operate a solid waste management or disposal facility and foster cooperation on such matters.

(3) Provide, upon request, assistance to local governments within the region to formulate their own plans for evaluating needs and providing adequate solid waste management within their jurisdictions; and

(4) Serve as a clearinghouse for local governments in the region regarding solid waste management information.

**Section 8. Local Plans Required.** (a) Each county and any municipality as described below shall submit to the department,

within one and one-half years of the effective date of this act, a plan for the management of solid waste generated within its boundaries. A county's plan shall include the municipal jurisdictions within its boundaries except that any municipality may choose to submit its own solid waste management plan intended for implementation within its city limits and thereby be excluded from its county plan. Cities which do not choose to exclude themselves from their county's plan shall be responsible to share in the county's costs proportionately on a per capita basis. The content of all plans shall be consistent with the requirements of this act and every plan shall not become final until it has been officially adopted and approved pursuant to the requirements of this act. In the event a county or city does not submit a required plan or if said plan does not meet the minimum requirements set out in this act, the department shall prepare the plan which shall serve as the official county or city plan.

(b) Each plan shall at a minimum:

(1) Describe and explain the general origin, and weight or volume of solid waste currently generated within the jurisdiction's boundaries. For purposes of this estimate the jurisdiction may use such information as is reasonably available, or may use accepted methods of estimation recommended by the department;

(2) Identify current methods of collection and haulage of solid waste within the jurisdiction;

(3) Identify and describe the facilities where solid waste is currently being disposed or processed and the remaining available permitted capacity of such facilities and the capacity which could be made available through the reasonable expansion of such facilities. The plan shall also explain the extent to which existing facilities will be used during the life of the plan and shall not substantially impair the use of their remaining permitted capacity;

(4) Provide a description of current or planned recycling programs and an analysis of their impact on waste generated within the jurisdiction. Particularly regarding recycling, the plan shall describe and evaluate:

(i) Potential benefits of recycling, including the potential solid waste reduction and the avoided cost of municipal waste processing or disposal.

(ii) Existing materials recovery operations and the kind and weight or volume of materials recycled by the operations, whether public or private.

(iii) The compatibility of recycling with other waste processing or disposal methods used in the jurisdiction including methods of collecting recyclables.

(iv) Options for cooperation or agreement with other jurisdictions for the collection, processing and sale of recyclable materials.

(5) Address the requirements proposed under Subtitle D of the federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 as amended and identify and explain those actions the jurisdictions should take to assure proper management of its wastes under these requirements;

(6) Propose procedures for the identification and elimination of unauthorized dumps in the jurisdiction;

(7) Describe and explain the general origin and weight or volume of solid waste reasonably expected to be generated within the jurisdiction annually during the next ten years. The assessment shall describe the primary variables affecting this estimate and the extent to which they can reasonably be expected to affect the estimate.

(8) Provide for the development or expansion of solid waste management systems in a manner that is consistent with the needs of the area, taking into account planning, zoning, population and development estimates, and economics of the jurisdiction and the protection of air, water, land and other natural resources.

(9) Identify any current agreements between the jurisdiction and other units of local government or public authorities for the joint use of solid waste processing or disposal facilities and evaluate the need for and feasibility of entering joint agreements in the future.

(10) Identify any current contractual agreements with private entities for the collection, processing or disposal of solid waste and evaluate the need for and feasibility of entering into such agreements in the future;

(11) Identify the general location within a county where solid waste processing or disposal facilities and recycling programs may be located, and identify the site of each facility if a site has already been chosen. In identifying general locations for facilities in the plan, each jurisdiction shall consider at least the following:

(i) The jurisdiction's solid waste management needs as identified in its plan.

(ii) The relationship of the proposed location or locations to planned or existing development, to major transportation arteries and to existing state primary and secondary roads;

(iii) The relationship of the proposed location or locations to existing industries in the jurisdiction or state that generate large volumes of solid waste and to the areas projected by the state or local regional planning and development commission for development of industries that will generate solid waste;

(iv) The costs and availability of public services, facilities and improvements which would be required to support a facility in this location and protect public health, safety and the environment;

(v) The potential impact a facility in the proposed location or locations would have on public health and safety, and the potential that such locations can be utilized in a manner so as to minimize the impact on public health and safety; and

(vi) The social and economic impacts that a facility at the proposed location would have on the affected community, including changes in property values, community perception and other costs;

(12) For any facility expected to serve the jurisdiction's future needs that is located or is proposed to be located outside the jurisdiction, the plan shall explain in detail the reasons for selecting such a facility.

(13) The plan shall include such other information as the department may require by regulation.

(c) Counties may, by agreement with other counties, combine in the development of a joint solid waste management plan.

(d) The department and the local regional planning and development commission shall, upon request, provide assistance to any county or municipality in the development of their local plan.

(e) The plan shall be completed on forms provided by the department and in accordance with the provisions of this act and any regulations promulgated by the department.

(f) Prior to final adoption or amendment of a plan, the jurisdiction shall afford the public an opportunity to present data, views and arguments thereon, orally or in writing. The public comment period shall be no less than thirty days in length and shall include at least one public hearing. Notice of the public comment period shall be published at least once in a newspaper of general circulation in the jurisdiction and in the official gazette, if any, in the jurisdiction. Notice of the inclusive dates of the public comment period and the date of the public hearing may be combined in the same publication. Notice of the time and place of the public hearing shall be published at least 30 days, but not more than 45 days prior to the date of said hearing. Any published notice shall contain a brief description of the proposed plan, and shall identify a location where copies of the plan shall be available for inspection during normal business hours, and shall also identify a contact person from whom interested persons can obtain additional information or copies of the proposed plan. The plan, including any revisions, subsequently submitted for adoption shall be accompanied by a document containing written responses to comments made during the comment period.



(g) The governing body of the jurisdiction shall adopt the final plan within 60 days from the end of the public comment period at an official business meeting open to the public.

(h) Upon completion and adoption of the local plan, it shall be submitted to the department for review and approval. Within 30 days after receiving a complete plan, the department shall approve, conditionally approve or disapprove it, unless the department gives written notice that additional time is necessary to complete its review. If the department gives such notice, it shall have 30 additional days to render a decision. The department shall approve any local plan that demonstrates to the satisfaction of the department that:

(1) The plan is complete and accurate and consistent with this act and regulations promulgated hereunder.

(2) The plan provides for the processing and disposal of municipal waste in a manner that is consistent with the requirements of the Solid Waste Management Act and the regulations promulgated pursuant thereto.

(3) The plan provides for the processing and disposal of local waste for at least ten years.

(i) Each county and municipality with an approved solid waste management plan shall submit a revised plan to the department in accordance with the requirements of this act:

(1) At least three years prior to the time all remaining available permitted capacity for the jurisdiction will be exhausted, or

(2) When otherwise required by the department.

**Section 9. Implementation of Plans.** (a) In addition to any regulatory bodies, the governing body of a county or municipality has a responsibility for and the authority to assure the proper management of solid wastes generated within its jurisdiction in accord with its solid waste management plan. A governing body may assign territories and approve or disapprove disposal sites in its jurisdiction in accord with the plan approved for its jurisdiction. Such approval or disapproval of services or activities described in the local plan shall be in addition to any other approvals required from other regulatory authorities and shall be made prior to any other approvals necessary for the provision of such services, the development of a proposed facility or the modification of permits for existing facilities. The department may not consider an application for a new or modified permit for a facility unless such application has received approval by the affected unit of local government having an approved plan.

In determining whether to recommend approval of the proposed issuance of or modification of a new or existing solid waste management site, the governing body shall consider each of the following:

1. The consistency of the proposal with the jurisdiction's solid waste management need as identified in its plan.
2. The relationship of the proposal to local planned or existing development or the absence thereof, to major transportation arteries and to existing state primary and secondary roads;
3. The location of a proposed facility in relationship to existing industries in the state that generate large volumes of solid waste, or the relationship to the areas projected for development of industries that will generate solid waste;
4. Costs and availability of public services, facilities and improvements required to support a proposed facility and protect public health, safety and the environment;
5. The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety; and
6. The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception.

The application of the plan for local approval shall not apply to simple renewals of a permit which is to be otherwise unchanged. Further, there shall be no requirement for local review and approval of permit modifications for the limited purposes of changing liner and leachate collection design, changes in waste streams from within the facility's designated service area, changes in sequence of fill, changes to incorporate new technology and changes intended to bring a facility into compliance with statutes and regulations.

Any determination by the local governing body of the proposed issuance of or modification of a permit for a new or existing solid waste management site or the proposal to contract for any services described in the solid waste management plan, shall be made in a public meeting only after public notice of such application or proposal and an opportunity for public comment is provided.

In providing public notice of any application or proposal regarding any services described in the solid waste management plan, the local government shall at a minimum hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the jurisdiction. Furthermore, such notice shall be given at least 30 days but not more than 45

days prior to the proposed date of said hearing. Each notice published in compliance with this section shall contain at a minimum a description of the proposed action to be considered, its relevance to and consistency with the local solid waste management plan and shall identify a contact person from whom interested persons can obtain additional information and can review copies of both the local plan and the application or proposal to be considered. All pertinent documents shall be available for inspection during normal business hours at a location readily accessible to the public. Within ninety days of receiving an application or proposal, the local governing body shall either approve the application or deny the application setting forth the reasons therefor. The failure of the local governing body to act on the proposal within ninety days of receiving the application shall constitute approval by said local governing body.

(b) Following local review and approval of any proposal regarding services or activities described in the local solid waste management plan, the applicant shall obtain a statement of consistency from the regional planning and development commission. Therein, the said commission shall evaluate the proposal using the provisions of the current regional solid waste management needs assessment. In particular, the regional commission shall evaluate the proposal as it relates to available existing capacity within the region and the projected lifetime of such capacity. The evaluation shall also identify any proposed capacity which is in excess of expected regional needs. No statement of consistency shall be required for contracts exclusively for the collection or transportation of solid wastes.

(c) The implementation of plans required by this Section 9 shall not apply to industrial landfills receiving wastes generated on site only by the permittee.

**Section 10. Moratorium on Issuance of Permits.** For the purpose of evaluating solid waste management problems facing the state and to allow for the development of comprehensive plans to identify and provide for the state's solid waste management needs, there is hereby imposed a moratorium on the issuance by the Department of Environmental Management of any new or modified permits or transfers of existing permits for solid waste management facilities which receive or are intended to receive wastes not generated by the permittee. Said moratorium shall not apply to industrial landfills receiving waste generated in state only by the permittee. Modifications for the limited purposes of changing liner and leachate collection design, changes in waste streams from within the facility's designated service area, changes in sequence of fill, and changes to incorporate new technology, or changes intended to bring a facility into compliance with statutes and regulations are specifically excluded from this moratorium. Said moratorium shall continue for a period of 24

months from the effective date of this act or until the completion and adoption of the comprehensive state and local solid waste management plans required herein, whichever occurs first. The Director is hereby authorized to waive the limitation imposed by this moratorium for a particular facility upon a finding based upon a recommendation by the State Health Officer and accompanied by a resolution from the host government. The request for waiver shall be initiated by resolution of the governing body of the jurisdiction which recognizes a potential crisis in solid waste management in the jurisdiction unless a permit application or modification for a facility intended to serve the area is approved. Said resolution shall be adopted at a public meeting of the governing body following publication of at least one notice in a newspaper of general circulation in the area at least ten days prior to the meeting. Said resolution shall request the State Health Officer to determine if the situation poses a threat to human health or the environment within the jurisdiction based upon substantive criteria to be established by rule of the State Board of Health. In the event the State Health Officer so certifies, the moratorium may be waived and the Director may issue a permit or modification for the limited purpose of serving the jurisdiction or jurisdictions identified in the State Health Officer's certification.

**Section 11.** Any application approved by A.D.E.M. during the moratorium period pursuant to solid waste siting shall encourage recycling of said solid waste.

**Section 12.** Severability. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 13.** Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1989

Time: 3:30 P.M.

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Act No. 89-825

S. 337—Senators Bennett, Cabaniss,  
Campbell, Amari and  
Bailey

### AN ACT

To amend the Adult Protective Services Act of 1976, Sections 38-9-2, 38-9-6 and 38-9-7, Code of Alabama, 1975 to provide further protection for adults who, because

of the infirmities of age, disabilities or like incapacities, are in need of protection and provides criminal penalties for the abuse, neglect or exploitation of any adult.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 38-9-2, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 38-9-2. Definitions.

“For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) **ADULT IN NEED OF PROTECTIVE SERVICES.** A person 18 years of age or older whose behavior indicates that he is mentally incapable of adequately caring for himself and his interests without serious consequences to himself or others, or who, because of physical or mental impairment, is unable to protect himself from abuse, neglect or exploitation by others, and who has no guardian or relative or other appropriate person able, willing and available to assume the kind and degree of protection and supervision required under the circumstances.

“(2) **INTERESTED PERSON.** Any adult relative, friend or guardian of a person to be protected under this chapter, or any official or representative of a public or private agency, corporation or association concerned with his welfare.

“(3) **CARETAKER.** An individual who has the responsibility for the care of the elderly or handicapped person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract or as a result of the ties of friendship.

“(4) **OTHER LIKE INCAPACITIES.** Those conditions incurred as the result of accident or mental or physical illness, producing a condition which substantially impairs an individual from adequately providing for his own care or protecting his own interests or protecting himself from physical or mental injury or abuse.

“(5) **SENILITY.** Organic brain damage caused by advanced age or other physical illness in connection therewith to the extent that the person so afflicted is substantially impaired in his ability to adequately provide for his own care.

“(6) **ABUSE.** The infliction of physical pain, injury, or the willful deprivation by a caretaker or other person of services necessary to maintain mental and physical health.

“(7) **EMOTIONAL ABUSE.** The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.

“(8) **NEGLECT.** The failure of a caretaker to provide food, shelter, clothing, medical services, and health care for the person unable to care for himself; or the failure of the person to provide these basic needs for himself when the failure is the result of the person’s mental or physical inability.

“(9) **EXPLOIT.** The expenditure, diminution or use of the property, assets or resources of a person subject to protection under the provisions of this chapter without the express voluntary consent of that person or his legally authorized representative.

“(10) **PROTECTED PERSON.** Any person over 18 years of age subject to protection under the provisions of this chapter or any person including but not limited to persons who are senile, mentally ill, developmentally disabled, mentally retarded or any person over 18 years of age that is mentally or physically incapable of adequately caring for himself and his interests without serious consequences to himself or others.

“(11) **PROTECTIVE SERVICES.** Those services whose objective is to protect an incapacitated person from himself and from others.

“(12) **DEPARTMENT.** The department of human resources of the state of Alabama.

“(13) **COURT.** The circuit court.

“(14) **PHYSICAL INJURY.** Impairment of physical condition or substantial pain.

“(15) **SERIOUS PHYSICAL INJURY.** Physical injury which creates a risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or the impairment of the function of any bodily organ.

“(16) **Person.** Any natural Human Being.

“(17) **Intentionally.** A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his purpose is to cause that result or to engage in that conduct.

“(18) **Recklessly.** A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A-3-2, acts recklessly with respect thereto.”

**Section 2.** Section 38-9-6, Code of Alabama, 1975, is hereby amended to read as follows:

**"Section 38-9-6. Protective Placement.**

"(a) An interested person may petition the court to order protective placement of an adult for purposes of care. No protective placement may be ordered unless there is a determination by the court that the person is unable to provide for his own protection from abuse, neglect or exploitation. Upon such petition, setting forth the facts and name, age, sex and residence of such person, the court of the circuit in which such person resides has authority, and it is a duty, to appoint a day, not more than 30 days from the filing of such petition, for the hearing thereof. If, on the hearing of such petition, the person is not represented by counsel, the court shall appoint a guardian ad litem to represent him. A jury of six persons shall be impanelled for said hearing to serve as the trier of facts.

"(b) Costs of court proceedings under this chapter shall be paid as other civil court costs are paid, as provided for by law.

"(c) The court shall give preference in making a determination to the least drastic alternative considered to be proper under the circumstances, including a preference for noninstitutional care whenever possible. Before ordering the protective placement of any person, the court shall direct a comprehensive evaluation of the adult in need of services, if such an evaluation has not already been made and is necessary. The court may utilize available resources in the community in determining the need for placement. The department shall cooperate with the court in securing available resources for the person to be served. A copy of the comprehensive evaluation shall be provided to the guardian or the guardian ad litem or attorney of the person if a guardian has not been appointed. The court obtaining the evaluation shall request appropriate information which shall include at least the following:

(1) The address of the place where the person is residing and the person or agency who is providing services at present, if any.

(2) A resume of any professional services provided to the person by the department or other agency in connection with the problems creating a need for placement.

(3) A medical, psychological, social, vocational and educational evaluation and review, where necessary.

"(d) The department which arranges for a protective placement shall make an evaluation and submit a written report to the court at least once every six months covering the physical, mental and social condition of each person for whom it is acting and shall recommend an alternative arrangement where appropriate.

“(e) Any record of the department or other agency pertaining to such a person shall not be open for public inspection. Information therein shall not be disclosed publicly in such a manner as to identify individuals, but may be made available on application for cause to persons approved by the commissioner of the department or by the court.

“(f) Placement may be made in an appropriate alternative living arrangement such as a licensed nursing home, licensed personal care facility or approved foster care home. No person may be committed to a mental health facility under this chapter.

“(g) If the person is eligible for the adult services program of the department, usual department policies will be followed in regard to fees or payments, or both. If the person's income or resources, or both, make him ineligible for department services other than protective services, payment for services in relation to his evaluation and to his care in a protective setting is to be made from his income or resources, or both. A guardian, a conservator, or both, may be appointed by the court; provided that the department shall not be appointed as guardian or conservator and provided further, that the department shall not be appointed custodian other than for the limited purpose, where appropriate, of transporting an adult for protective placement as ordered by the court. If it is agreeable with the person to be served, the court may appoint a guardian, or conservator, or both, having the same powers, duties and obligations, including having a bond, as a guardian of an incapacitated person or a conservator under the Alabama Uniform Guardianship and Protective Proceedings Act and it shall not be necessary to have a hearing on that issue; otherwise, the court may appoint a guardian, a conservator, or both, following the procedures provided by the Alabama Uniform Guardianship and Protective Proceedings Act. If a jury is requested or required, the jury impanelled in this court according to Section 38-9-6(a) shall serve that function.

“(h) When any adult in need of protective services is unable to manage his estate and thereby is in danger of being reduced to poverty and want, an interested person may petition the court to preserve the estate of such person, to direct use of the estate for the needs of the person and for the general relief of the person.

“(i) No civil rights are relinquished as a result of any protective placement under this chapter. Nothing in this chapter shall be construed to authorize or require medical care or treatment for a person in contravention of his stated or implied objection thereto upon the grounds that such medical care and treatment conflict with his religious beliefs and practices.



“(j) As far as is compatible with the mental and physical condition of the adult in need of services or claimed to be in need of services under this chapter, every reasonable effort shall be made to assure that no action is taken without the full and informed consent of the person.”

**Section 3.** Section 38-9-7, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 38-9-7. Abuse, neglect and exploitation prohibited; initiation of charges; penalty.

“(a) It shall be unlawful for any person to abuse, neglect or exploit any adult subject to protection under the provisions of this chapter. Charges of such abuse, neglect or exploitation may be initiated upon complaints of private individuals or as a result of investigations by social service agencies or on the direct initiative of law enforcement officials.

“(b) Any person who intentionally abuses or neglects a person in violation of the provisions of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.

“(c) Any person who recklessly abuses or neglects a person in violation of the provisions of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.

“(d) Any person who intentionally abuses or neglects a person in violation of the provisions of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.

“(e) Any person who recklessly abuses or neglects a person in violation of the provisions of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.

“(f) Any person who emotionally abuses a person in violation of the provisions of this chapter shall be guilty of a Class A misdemeanor.

“(g) Any person who exploits a person in violation of the provisions of this chapter shall be guilty of a Class C felony, where the value of the property, assets or resources exceeds \$100.00.

“(h) Any person who exploits a person in violation of the provisions of this chapter shall be guilty of a Class A misdemeanor, where the value of the property, assets or resources does not exceed \$100.00

“(i) If a violation of this section is also a violation of any other Alabama criminal statute, then a conviction or acquittal under either statute bars prosecution under the remaining statute.”

**Section 4. Severability.**

The provisions of the Act are severable, and if any phrase, clause, sentence or provision of this Act, or the application of such phrase, clause, sentence or provision shall be held invalid, the remainder of the Act shall not be affected thereby.

**Section 5. No repeal.**

Nothing contained in this Act shall be deemed to repeal any other sections of Code of Alabama, 1975.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 16, 1989

Time: 5:50 P.M.

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Act No. 89-826

H. 191—Reps. Harper and White (G)

AN ACT

To make an appropriation for the support and maintenance of Tuskegee University for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the fiscal year ending September 30, 1990, the sum of one million six hundred ninety-four thousand seven hundred ninety-two dollars (\$1,694,792), out of the funds in the Alabama Special Educational Trust Fund to Tuskegee University located at Tuskegee, Alabama, to be used for the support and maintenance of said school.

**Section 2.** In addition to the above appropriation, there is also appropriated the sum of two million dollars (\$2,000,000) from the Alabama Special Educational Trust Fund to be conditioned upon the availability of funds in the Alabama Special Educational Trust Fund and upon the approval of the Governor.

**Section 3.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 4.** This Act shall become effective October 1, 1989.

Approved May 16, 1989

Time: 5:30 P.M.

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Act No. 89-827

H. 112—Rep. White (L)

AN ACT

To authorize nonprofit organizations in Tallapoosa County to hold raffles, cake walks and turkey shoots for fund raising purposes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The holding of raffles, cake walks, turkey shoots and other similar contests of skill for charitable purposes by nonprofit organizations in Tallapoosa County shall be legal, subject to the provisions of any resolution or ordinances by the Tallapoosa County Commission or the governing bodies of the respective cities and towns, within their respective jurisdictions. Said Commission and governing bodies shall have the authority to promulgate rules and regulations for the operation of raffles, cake walks, turkey shoots and similar contests within their respective jurisdictions. Provided, however, no proceeds from such activities shall be payable to any officer or employee of the organization conducting said activity.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:01 P.M.

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Act No. 89-828

H. 117—Rep. Crow

AN ACT

To amend Section 32-5A-177, Code of Alabama 1975, relating to the enforcement of speed limits, to permit aerial enforcement of speed laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-5A-177, Code of Alabama 1975, is hereby amended to read as follows:

“§32-5A-177.

“(a) In every charge of violation of any speed regulation in this article the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

“(b) The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

“(c) Any state trooper, upon receiving information relayed to him from a fellow officer stationed on the ground or in the air operating a speed measuring device that a driver of a vehicle has violated the speed laws of this state, may arrest the driver for violation of said laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.

“(d) A witness otherwise qualified to testify shall be competent to give testimony against an accused violator of the motor vehicle laws of this state when such testimony is derived from the use of such speed measuring device used in the calculation of speed, upon showing that the speed measuring device which was used had been tested. However, the operator of any visual average speed computer device shall first be certified as a competent operator of such device by the department.

“(e) Any person accused pursuant to the provisions of this section shall be entitled to have the officer actually operating the device appear in court and testify upon oral or written motion.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:02 P.M.

Davis, Rogers, Spratt,  
Hill, Curry, Logan,  
Wright and Petelos

## AN ACT

To exempt from all state, county and municipal sales taxes the sale of food pursuant to the food distribution program conducted by Christian Service Mission, Inc., in cooperation with World Share, Inc.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby exempted from all state, county and municipal sales taxes the sale of food pursuant to the food distribution program conducted by Christian Service Mission, Inc., an Alabama not-for-profit corporation, in cooperation with World Share, Inc., to enable needy persons to purchase food at substantially discounted prices and in consideration of the performance of charitable or community work by such persons.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:30 P.M.

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Act No. 89-830

H. 625—Reps. Kvalheim, Gaston  
and Harper

## AN ACT

To amend Section 40-9-1, Code of Alabama 1975, which provides for exemptions from ad valorem taxes, so as to exempt property owned by the Disabled American Veterans.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-9-1, Code of Alabama 1975, is hereby amended to read as follows:

“§40-9-1.

“The following property and persons shall be exempt from ad valorem taxation and none other:

“(1) All bonds of the United States and this state and all county and municipal bonds issued by counties and municipalities in this state, all property, real and personal, of the United States and this state and of county and municipal corporations in this state; all

cemeteries; all property, real and personal, used exclusively for religious worship, for schools or for purposes purely charitable; provided, that property, real or personal, owned by any educational, religious or charitable institution, society or corporation let for rent or hire or for use for business purposes shall not be exempt from taxation, notwithstanding that the income from such property shall be used exclusively for education, religious or charitable purposes; all mortgages, together with the notes, debts and credits secured thereby on real and personal property situated in this state, which mortgages have been filed for record and the privilege tax paid thereon; all security agreements and security interests under the Uniform Commercial Code, together with the notes, debts and credits secured thereby; all money on deposit in any bank or banking institution and all other solvent credits; all warrants issued by county boards of education and city boards of education for the purpose of erecting, repairing, furnishing school buildings or for other school purposes;

“(2) All property, real or personal, used exclusively for hospital purposes, to the amount of \$75,000.00, where such hospitals maintain wards for charity patients or give treatment to such patients; provided, that the treatment of charity patients constitutes at least 15 percent of the business of such hospitals; provided further, that such hospital need not be assessed for taxation if the owner or manager shall file with the county tax assessor wherein such hospital is located within the time allowed for assessing such property for taxation a certificate that such hospital has done 15 percent charity work in the preceding tax year; and further provided, that such hospital through its owner or manager shall have until the expiration of the preceding tax year to class its work and ascertain whether or not such hospital has done 15 percent of its treatment of patients as charity work;

“(3) The shares of the capital stock of any corporation owning and operating a hospital, to the extent of \$75,000.00 in value; provided, that said corporation maintains wards for charity patients and gives treatment to such patients, which treatment constitutes at least 15 percent of the business of the hospital of said corporation; provided, that the total exemption granted to any such corporation shall not exceed \$75,000.00, taking into consideration its real and personal property and the value of its shares of capital stock;

“(4) All property owned by the American Legion or by Veterans of Foreign Wars or by the Disabled American Veterans, or any post thereof; provided, that such property is used and occupied exclusively by said organization;

“(5) All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions;

“(6) The libraries of ministers of the gospel, all libraries other than those of a professional character and all religious books kept for sale by ministers of the gospel and colporteurs;

“(7) The property of deaf mutes and insane persons to the extent of \$3,000.00 and the property of blind persons to the extent of \$12,000.00;

“(8) All family portraits;

“(9) All cotton, livestock or agricultural products which have been raised or grown in the state of Alabama and which shall remain in the hands of the producer thereof, or his landlord, or in the hands of a cooperative association for all time, and for a period of one year in the hands of the purchaser or the manufacturer;

“(10) All cotton, wherever grown, stored in licensed warehouses in the state of Alabama for a period not exceeding 12 months;

“(11) Provisions and supplies on hand for the current year for the use of the family and the making of crops; all wearing apparel; farming tools; tools and implements of mechanics to the value of \$200.00; all livestock, including mules, studs, jacks and jennets, cattle, horses, cows, calves, hogs, sheep and goats; household and kitchen furniture and one sewing machine;

“(12) No license or taxation of any character, except franchise taxes provided by section 229 of the Constitution of the state of Alabama, shall be collected or required to be paid to the state or any county or municipality therein by any state or county fair, agricultural association, stock, kennel or poultry show. Athletic stadiums owned and controlled by universities, schools or colleges and which are used exclusively for the purpose of promoting intercollegiate or interschool athletics; provided, that the revenue received from athletic stadiums, when admission is charged, shall be used for the benefit of athletic associations of such universities, colleges or schools. Nothing contained in this subdivision shall be construed to prohibit any municipality, county or state from imposing any license tax upon or for the privilege of engaging in the business of supplying services for hire or reward or selling commodities other than livestock, farm products or farm implements or conducting or operating devices or games of skill or amusements or other games or devices, or conducting or operating shows, displays or exhibits other than shows, displays or exhibits of agricultural implements, farm products, livestock and athletic prowess;

“(13) All material, including without limitation coke, to be compounded or further manufactured, when stocked at any plant or furnace for manufacturing purposes in Alabama;

“(14) All articles manufactured in Alabama, including pig iron, in the hands of the producer or manufacturer thereof, for 12 months after its production or manufacture;

“(15) All property, both real and personal, owned by any unit or organization of the Alabama national guard officially recognized as such by the federal government and organized and maintained by the state, and all property owned by shares and used exclusively by and kept exclusively in the possession of any such unit or organization of the Alabama national guard, the annual rent or hire of which is not in excess of the annual state, county and municipal taxes on said property shall be exempt from taxation by the state, and the county and municipality in which the same may be situated;

“(16) All poultry;

“(17) The property of all incompetent veterans to the value of \$3,000.00;

“(18) The following items of personal property when owned by individuals for personal use in the home or usually kept at the home of the owner and not carried as stocks of merchandise, namey: libraries; phonographs; pianos and other musical instruments; paintings; precious stones, jewelry, plate silverware, ornaments and articles of taste; watches and clocks; wagons, buggies, bicycles, guns, pistols, canes, golf sticks, golf bags and sporting goods; money hoarded; radios; mechanical and electrical refrigerators; electrical appliances;

“(19) All property owned by the Benevolent and Protective Order of Elks, Fraternal Order of Police, Fraternal Order of Eagles or Loyal Order of Moose, or lodge thereof; provided, that such property is used and occupied exclusively by such organization;

“(20) All devices, facilities or structures, and all identifiable components thereof or materials for use therein, acquired or constructed primarily for the control, reduction or elimination of air or water pollution;

“(21) Tobacco leaf stored in hogsheads;

“(22) All farm tractors, as that term is defined in subdivision (19) of section 32-1-1.1; and all farming implements, as that term is used in subdivision (5) of section 40-11-1, as amended, when used exclusively in connection with agricultural property as defined in subdivision (b)(3) of section 40-8-1, as amended;

“(23) All stocks of goods, wares and merchandise described in subdivision (4) of section 40-11-1, as amended; and

“(24) All aircraft, replacement parts, components, systems, supplies and sundries affixed or used on said aircraft, and ground support



equipment and vehicles used by or for the aircraft, when used by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words "hub operation within this state" shall be construed to have all of the following criteria:

"a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

"b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:13 P.M.

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Act No. 89-831

H. 763—Rep. White (L)

### AN ACT

Relating to Tallapoosa County; authorizing the county commission to levy an additional annual license tax and registration fee upon motor vehicles in the county and providing for the disposition of the tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Tallapoosa County, upon the adoption of a resolution, the county commission is hereby authorized to impose, in addition to all other taxes, licenses and fees heretofore provided by law, an annual license tax and registration fee in an amount to be determined by the county commission, but not to exceed \$20.00 upon every motor vehicle, as defined in Title 32 of the Code of Alabama 1975, which is owned by any individual who is a resident of the county and upon every such vehicle used or operated in said county and owned by any corporation, firm or association which has an office or place of business in said county. The county license tax and registration fee shall become due on the due date of the state license and registration fee levied under the provisions of Title 32 of the Code of Alabama 1975.

**Section 2.** Motor vehicles owned and used by the state, and counties or municipalities of this state, shall not be liable for the

payment of the county license tax and registration fee authorized by this act.

**Section 3.** The county commission shall have the power and authority to adopt and promulgate rules and regulations necessary for the collection and enforcement of the county license tax and registration fee authorized by this act and to expend so much of the proceeds thereof as may be necessary to collect and enforce the tax and to provide for the evidence of the payment thereof. The proceeds of the county license tax and registration authorized by this act, less the cost of collecting, administering and providing the evidence of the payment thereof, shall be deposited into the county general fund.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The provisions of this act shall become effective January 1, 1990, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:14 P.M.

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Act No. 89-832

H. 772—Rep. Adams

### AN ACT

Relating to Phenix City; to amend section 3.01 of Act No. 71, H. 114, Regular Session 1977 (Acts 1977, p. 78), as amended, which provides for a council manager form of government in certain municipalities based on a population classification, so as to provide further for the holding of municipal elections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3.01 of Act No. 71, H. 114, Regular Session 1977 (Acts 1977, p. 78) is hereby amended to read as follows:

“Section 3.01.

“Number, election, term.—The council shall have five members with two elected at-large by all of the voters of the city and three elected from districts by voters within each district, the council elected in the manner prescribed in Section 1.07 of this act. The regular municipal elections in Phenix City shall be held on the first Tuesday in September, 1989, and each 3 years thereafter, and when necessary, a second or runoff election shall be held on the third Tuesday next thereafter following said regular election. Each councilman shall hold office for three years, but shall serve until his

successor shall have qualified. A councilman may succeed himself in office. Each of the three district councilmen shall reside within the limits of his district during the term of his office and if any district councilman shall remove from within the limits of his district for 60 consecutive days his office shall become vacant."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:16 P.M.

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Act No. 89-833

H. 850—Rep. Escott

### AN ACT

To amend Act No. 87-793, H. 648 of the 1987 Regular Session (Acts of 1987, p. 1553), relating to the Jefferson County Flood Control Authority, so as to further regulate the power of the Authority to issue bonds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 7 of Act No. 87-793, H. 648 of the 1987 Regular Session (Acts of 1987, p. 1553), relating to the Jefferson County Flood Control Authority, is hereby amended to read as follows:

"Section 7. The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of the powers stated in this subsection:

"(1) To have succession by its corporate name without time limit;

"(2) To sue and be sued and to prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties;

"(3) To have and to use a corporate seal and to alter the same at its pleasure;

"(4) To receive and expend funds from federal, state, county, municipal and private sources for the purposes hereof;

"(5) To dig channels, build dikes, dams, and lakes or ponds to contain flood waters as deemed useful by it to improve flood control, and whenever practical to build any and all facilities which can contribute to the use of such flood control channels for navigation;

“(6) To contract with municipalities and counties for the financing and joint construction and operation of such facilities;

“(7) To be responsible for regulating and facilitating traffic and transportation in and on the areas affected by any flood control project;

“(8) To appoint, employ, contract with and provide for the compensation of such employees, attorneys, architects, engineers, consultants, and agents as the board shall deem necessary for the conduct of the business of the Authority;

“(9) To apply for and receive and expend in accordance with the terms thereof grants from the United States of America or any agency thereof, the State of Alabama or any agency thereof, and from any municipality or county situated within the State of Alabama;

“(10) To borrow money and to pledge as security therefor assets of the Authority, without the right of lender to foreclose, and revenues of the Authority or any portion thereof.

“(11) To issue its revenue bonds to finance any construction project authorized hereunder under the same terms as provided for industrial development boards created under the provisions of Sections 11-54-80 through 11-54-101, Code of Alabama 1975, as amended, secured by rentals, taxes or other income of the Authority. All moneys derived from the sale of any bonds issued by the authority shall be used solely for the purpose or purposes for which the same are authorized, including, but without limitation to, the use of bond proceeds to establish reserve funds as security for the payment of the principal of (and premium, if any) and interest on the bonds, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to a. the fiscal, engineering, legal and other expenses incurred in connection with the issuance of the bonds, and b. except in the case of refunding bonds, interest to accrue on such bonds for a period ending not later than two years from their date.

“(12) To establish by resolution such procedures for the conduct of its affairs as it may deem necessary.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:19 P.M.

Act No. 89-834

H. 855—Rep. White (L)

## AN ACT

Relating to Tallapoosa County, to provide for the filing for record and the preservation of all orders and judgments made and entered by the judge of the circuit court of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In the circuit court of Tallapoosa County, all orders and decrees may be made and entered by circuit judges sitting in and for the circuit court in the county on a sheet or sheets now commonly called case action summaries and there shall be a case action summary for each case docketed in such court properly identified by the style of the case and a case number.

**Section 2.** After all orders and judgments have been made and entered, in any case, by the circuit judge or judges sitting in and for the circuit court in the county, the clerk of the circuit court of the county shall file a copy of such sheets in numerical order in well bound books labeled "Minute Books" and such judgments or orders shall have the same force and effect as minutes of the circuit court of said circuit prior to the passage and approval of this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:20 P.M.

Act No. 89-835

H. 911—Rep. Butler

## AN ACT

Relating to the City of Madison in Madison County, Alabama; to authorize the City Council, by ordinance, to regulate blasting and the storage, keeping, hauling and use of explosives.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Under the general authority of Section 11-43-60 of the Code of Alabama 1975, the City Council of the City of Madison

in Madison County, Alabama, is hereby specifically authorized and empowered, by duly enacted city ordinance, to specifically regulate the storage, keeping, hauling and use of any explosive substance and to regulate blasting for both commercial quarries and land development within the city limits and police jurisdiction of the city.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:22 P.M.

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Act No. 89-836

H. 921—Rep. Freeman

### AN ACT

Relating to Madison County; granting to the Madison County Commission the power by ordinance to regulate and prevent the running at large of dogs and to pass all ordinances necessary for the impounding and sale of such dogs and the destruction of such dogs.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Madison County Commission shall have the power by ordinance to regulate and prevent within Madison County the running at large of all dogs or other animals and to pass all ordinances necessary for the impounding and sale of such dogs and destruction of dogs, so long as any such ordinances are not inconsistent with the provisions of Act Number 88-424 of the 1988 Regular Session of the Alabama Legislature and no such ordinance shall permit the impounding of dogs which have a current Madison County license and a current inoculation for rabies unless the Madison County Commission has received a complaint regarding the said dog running at large.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:23 P.M.

Act No. 89-837

H. 982—Rep. Harper

## AN ACT

To amend Chapter 18, Title 40, Code of Alabama 1975, to provide conformity with the current federal Internal Revenue Code by amending sections 40-18-160, 40-18-161, 40-18-162, 40-18-164, 40-18-165, 40-18-166, 40-18-169, 40-18-170, by adding new sections 40-18-174 and 40-18-175, altering the income tax treatment of resident Alabama S corporation shareholders to more closely conform to partnership income tax rules, and allowing the filing of composite tax returns on behalf of nonresident shareholders.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-18-160, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-160. Definitions; exemption from tax imposed by section 40-18-31.

(a) For purposes of this chapter, an “Alabama S corporation” means any domestic corporation or foreign corporation qualified to do business or doing business in Alabama which has in effect an election to be an S corporation under 26 U.S.C. §1362, as in effect from time to time. The corporation shall not be an Alabama S corporation for any portion of a taxable year of the corporation during which an election under said 26 U.S.C. §1362 is not in effect for federal income tax purposes. An Alabama S corporation shall not be subject to the tax imposed by section 40-18-31.

(b) For purposes of this chapter, an “Alabama C corporation” means any corporation other than an Alabama S corporation.”

**Section 2.** Section 40-18-161, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-161. Determination of taxable income.

(a) The taxable income of an Alabama S corporation shall be determined in the same manner as in the case of an individual except that the items determined in subdivision (1), subsection (a) of section 40-18-162 shall be separately stated, and the following deductions shall not be allowed:

(1) Personal exemptions otherwise allowed by section 40-18-19;

(2) Income taxes paid to possessions of the United States otherwise allowed by section 40-18-15, paragraph (a)(3)a;

(3) Charitable contributions otherwise allowed by section 40-18-15, subdivision (a)(10);

(4) The net operating loss deduction otherwise allowed by sections 40-18-15, subdivision (a)(16) and 40-18-35.1;

(5) Medical expenses otherwise allowed by section 40-18-15, subdivision (a)(13);

(6) Alimony otherwise allowed by section 40-18-15, subdivision (a)(18);

(7) Moving expenses otherwise allowed by section 40-18-15, subdivision (a)(19);

(8) Contributions to individual retirement accounts otherwise allowed by section 40-18-15, subdivision (a)(11); and

(9) Depletion on oil or gas wells otherwise allowed by section 40-18-15, subdivision (a)(9).

(b) If the Alabama S corporation has income or deductions from more than one state, then the following rules shall apply:

(1) In the case of a resident shareholder,

a. The provisions of this article shall apply to the shareholder's pro rata share of the entire income and loss of the Alabama S corporation.

b. The shareholder shall be entitled to a credit under section 40-18-21 with respect to any income tax paid by the shareholder to another state, territory, or foreign jurisdiction in which the corporation is treated in whole or in part as an S corporation.

c. If the corporation is subject to an income tax in a state, territory, or foreign jurisdiction in which the corporation is not treated as an S corporation, or is treated only in part as an S corporation, then any such income tax on the corporation shall be allowed as a deduction in determining the corporation's taxable income under this section.

(2) A nonresident shareholder shall be subject to this article only with respect to such shareholder's pro rata share of income, loss, deduction or credit of the Alabama S corporation allocated and apportioned to Alabama in accordance with the rules and regulations applicable to foreign corporations.

(c) Any election affecting the computation of items derived from an Alabama S corporation shall be made by the corporation.

(d) (1) If an Alabama S corporation was an Alabama C corporation for the last taxable year before the first taxable year during which it became an Alabama S corporation, and such corporation inventoried goods under the LIFO method for such last taxable year, the LIFO recapture amount shall be included in the gross income



of the corporation for such last taxable year and appropriate adjustments to the basis of the inventory shall be made to take into account the amount included in gross income under this subdivision.

(2) Any increase in the tax imposed by this chapter by reason of this subsection shall be payable in four equal installments. The first installment shall be paid not later than the due date (without extension) for filing the return for the last taxable year before the corporation became an Alabama S corporation and the three succeeding installments shall be paid not later than the due date (without extension) for filing the returns for the succeeding three years. For purposes of computing interest on underpayments, the last three installments shall not be considered underpayments until after the payment dates specified in the previous sentence.

(3) For purposes of this subsection, the term "LIFO recapture amount" means the excess (if any) of

a. the inventory amount of the inventory assets under the first-in, first-out method over

b. the inventory amount of such assets under the LIFO method. For purposes of the preceding sentence, inventory amounts shall be determined as of the close of the last taxable year before the corporation became an Alabama S corporation.

(4) For purposes of this subsection,

a. The term "LIFO method" means the method authorized by 26 U.S.C. §472, as in effect from time to time.

b. The term "inventory assets" means stock in trade of the corporation or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

c. The inventory amount of assets under the first-in, first-out method shall be determined—

1. by using the retail method of valuing inventories if the corporation uses that method in connection with the LIFO method, or

2. if subparagraph 1 does not apply, then by using cost or market, whichever is lower."

**Section 3.** Section 40-18-162, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-162. Determination of tax of shareholder.

(a) In determining the tax of a shareholder for the shareholder's taxable year in which the taxable year of the Alabama S corporation ends, or for the final taxable year of a shareholder who dies before

the end of the corporation's taxable year, there shall be taken into account the shareholder's pro rata share of the corporation's:

(1) Items of income, including tax-exempt income, loss, deduction, or credit the separate treatment of which could affect the liability for tax of any shareholder, including charitable contributions and income taxes paid to possessions of the United States, and

(2) Nonseparately computed income or loss. The term "nonseparately computed income or loss" means gross income minus the deductions allowed to the corporation under this article, determined by excluding all items described in subdivision (1) of this subsection.

(b) The character of any item included in a shareholder's pro rata share under subsection (a) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(c) In any case where it is necessary to determine the gross income of a shareholder for purposes of this article, such gross income shall include the shareholder's pro rata share of the gross income of the corporation.

(d) The following special rules for losses and deductions shall apply:

(1) The aggregate amount of losses and deductions taken into account by a shareholder under subsection (a) of this section for any taxable year shall not exceed the sum of:

a. The adjusted basis of the shareholder's stock in the Alabama S corporation as determined with regard to subsection (a) of section 40-18-164 for the taxable year, and

b. The shareholder's adjusted basis of any indebtedness of the Alabama S corporation to the shareholder as determined without regard to any adjustment under subsection (c)(2) of section 40-18-164 for the taxable year.

(2) Any loss or deduction which is disallowed for any taxable year by reason of subdivision (1) of this subsection shall be treated as incurred by the corporation in the succeeding taxable year with respect to that shareholder.

(3) The carryover of disallowed losses and deductions to the post-termination transition period shall be determined as follows:

a. If for the last taxable year of a corporation for which it was an Alabama S corporation, a loss or deduction was disallowed by reason of subdivision (1) of this subsection, such loss or deduction

shall be treated as incurred by the shareholder on the last day of any post-termination transition period.

b. The aggregate amount of losses and deductions taken into account by a shareholder under paragraph a of this subdivision shall not exceed the adjusted basis of the shareholder's stock in the corporation as determined at the close of the last day of the post-termination transition period and without regard to this paragraph.

c. The shareholder's basis in the stock of the corporation shall be reduced by the amount allowed as a deduction by reason of this subdivision.

(e) If any Alabama income tax is imposed under section 40-18-174 for any taxable year on an Alabama S corporation, for purposes of subsection (a), the amount of each recognized built-in gain (within the meaning of section 40-18-174) for such taxable year shall be reduced by its proportionate share of such tax.

(f) If any tax is imposed under section 40-18-175 for any taxable year on an Alabama S corporation, for purposes of subsection (a), each item of passive investment income shall be reduced by an amount which bears the same ratio to the amount of such tax as the amount of such item bears to the total passive investment income for the taxable year."

**Section 4.** Section 40-18-164, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-164. Increase or decrease in basis of shareholder's stock; special rules.

(a) The basis of each shareholder's stock in an Alabama S corporation shall be increased for any period by the sum of the following items determined with respect to that shareholder for such period:

(1) The items of income described in subdivision (1) of subsection (a) of section 40-18-162;

(2) Any nonseparately computed income determined under subdivision (2) of subsection (a) of section 40-18-162; and

(3) The excess of the deductions for depletion over the basis of the property subject to depletion.

(b) The basis of each shareholder's stock in an Alabama S corporation shall be decreased for any period, but not below zero, by the sum of the following items determined with respect to the shareholder for such period:

(1) Distributions by the corporation which were not includable in the income of the shareholder by reason of section 40-18-165;

(2) The items of loss and deduction described in subdivision (1) of subsection (a) of section 40-18-162;

(3) Any nonseparately computed loss determined under subdivision (2) of subsection (a) of section 40-18-162;

(4) Any expense of the corporation not deductible in computing its taxable income and not properly chargeable to capital account; and

(5) The amount of the shareholder's deduction for depletion with respect to oil and gas wells.

(c) The following special rules shall apply:

(1) An amount which is required to be included in the gross income of a shareholder and shown on his return shall be taken into account under subdivisions (a)(1) and (a)(2) of this section only to the extent such amount is included in the shareholder's gross income on his return, increased or decreased by any adjustment of such amount in a redetermination of the shareholder's tax liability.

(2) a. If for any taxable year the amounts specified in subdivisions (2), (3), (4), and (5) of subsection (b) of this section exceed the amount which reduces the shareholder's basis to zero, such excess shall be applied to reduce, but not below zero, the shareholder's basis in any indebtedness of the Alabama S corporation to the shareholder.

b. If for any taxable year there is a reduction under paragraph (a) of this subdivision in the shareholder's basis in the indebtedness of an Alabama S corporation to a shareholder, any net increase, after the application of subsections (a) and (b) of this section, for any subsequent taxable year shall be applied to restore such reduction in basis before any of it may be used to increase the shareholder's basis in stock of the Alabama S corporation.

(3) This section and sections 40-18-162 and 40-18-163 shall be applied before determining the amount of loss in any taxable year of the shareholder or the corporation in which the security or debt becomes worthless."

**Section 5.** Section 40-18-165, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-165. Distribution of property generally.

(a) A distribution of property made by an Alabama S corporation with respect to its stock to which, but for this article, section 40-18-36 would apply shall be treated in the manner provided in subsection (b) or (c) of this section, whichever applies.

(b) In the case of a distribution described in subsection (a) of this section by an Alabama S corporation which has no accumulated earnings and profits:

(1) The distribution shall not be included in gross income to the extent that it does not exceed the adjusted basis of the stock.

(2) If the amount of the distribution exceeds the adjusted basis of the stock, such excess shall be treated as gain from the sale or exchange of property.

(c) In the case of a distribution described in subsection (a) of this section by an Alabama S corporation which has accumulated earnings and profits:

(1) That portion of the distribution which does not exceed the accumulated adjustments account shall be treated in the manner provided by subsection (b) of this section.

(2) That portion of the distribution which remains after the application of subdivision (c)(1) of this section shall be treated as a dividend to the extent it does not exceed the accumulated earnings and profits of the Alabama S corporation.

(3) Any portion of the distribution remaining after the application of subdivision (2) of this subsection (c) of this section shall be treated in the manner provided by subsection (b) of this section. Except to the extent provided in regulations, if the distributions during the taxable year exceed the amount in the accumulated adjustments account at the close of the taxable year, for purposes of this subsection, the balance of such account shall be allocated among such distributions in proportion to their respective sizes.

(d) Subsections (b) and (c) of this section shall be applied by taking into account to the extent proper:

(1) The adjustments to the basis of the shareholder's stock described in section 40-18-164, and

(2) The adjustments to the accumulated adjustments account which are required by section 40-18-166."

**Section 6.** Section 40-18-166, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-166. "Accumulated adjustments account" defined; application generally; "S period" defined; applicability of subdivision (c)(1) of section 40-18-165 to certain distributions; "affected shareholder" defined.

(a) Except as provided in subsection (b), for purposes of this article, the term "accumulated adjustments account" means an account of the Alabama S corporation which is adjusted for the S

period in a manner similar to the adjustments under section 40-18-164 hereof, except that no adjustment shall be made for income and related expenses which are exempt from tax under this chapter and the phrase "but not below zero" shall be disregarded in section 40-18-164(c)(2)a. In the case of any redemption which is treated as an exchange under section 40-18-36, the adjustment in the accumulated adjustments account shall be an amount which bears the same ratio to the balance in such account as the number of shares redeemed in such redemption bears to the number of shares of stock in the corporation immediately before such redemption.

The term "S period" means the most recent continuous period during which the corporation has been an Alabama S corporation. Such period shall not include any taxable year beginning before January 1, 1985.

(b) An Alabama S corporation may, with the consent of all of its affected shareholders, elect to have subdivision (1) of subsection (c) of section 40-18-165 not apply to all distributions made during the taxable year for which the election is made. For purposes of this subsection, the term "affected shareholder" means any shareholder to whom a distribution is made by the Alabama S corporation during the taxable year."

**Section 7.** Section 40-18-169, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-169. Adjustments to earnings and profits.

(a) Except as provided in subsections (b) and (c) of this section, no adjustment shall be made to the earnings and profits of an Alabama S corporation.

(b) In the case of any transaction involving redemption, liquidation, reorganization or division of any Alabama S corporation, proper adjustment to any accumulated earnings and profits of the corporation shall be made.

(c) Subsection (a) of this section shall not apply with respect to that portion of a distribution which is treated as a dividend under subdivision (2) of subsection (c) of section 40-18-165.

(d) Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account. An Alabama S corporation may elect to have the first sentence of this subsection not apply to all distributions made during a post-termination transition period described in section 40-18-172 but only if all the shareholders of the Alabama S corporation to whom distributions are made by the Alabama S corporation

during such post-termination transition period consent to such election."

**Section 8.** Section 40-18-170, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-170. Circumstances under which corporation treated as partnership: "two-percent shareholder" defined.

For purposes of applying the provisions of this chapter which relate to employee fringe benefits, the Alabama S corporation shall be treated as a partnership, and any two-percent shareholder of the Alabama S corporation shall be treated as a partner of such partnership. The term "two-percent shareholder" means any person who owns, or is considered as owning in accordance with 26 U.S.C. §318, as in effect from time to time, on any day during the taxable year of the Alabama S corporation more than two percent of the outstanding stock of such corporation or stock possessing more than two percent of the total combined voting power of all stock of such corporation."

**Section 9.** Section 40-18-174 is hereby added to read as follows:

"§40-18-174. Tax imposed on certain built-in gains.

(a) If for any taxable year beginning in the recognition period an Alabama S corporation has a net recognized built-in gain, there is hereby imposed a tax (computed under subsection (b)) on the income of such corporation for such taxable year.

(b) (1) The amount of the tax imposed by subsection (a) shall be computed by multiplying five percent by the net recognized built-in gain of the Alabama S corporation for the taxable year.

(2) Notwithstanding section 40-18-168, any net operating loss carryforward which would be deductible except for section 40-18-168 and which arose in a taxable year for which the corporation was not an Alabama S corporation, shall be allowed as a deduction against the net recognized built-in gain of the Alabama S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the net recognized built-in gain shall be treated as taxable income.

(c) The following limitations shall apply:

(1) Subsection (a) shall not apply to any corporation that has had in effect an election to be treated as an S corporation under Subchapter S of the U.S. Internal Revenue Code, Title 26, U.S.C., as in effect from time to time or as recodified, for each of its taxable years. Except as provided in regulations, and Alabama S corporation and any predecessor corporation shall be treated as one corporation for purposes of the preceding sentence.

(2) The amount of the net recognized built-in gain taken into account under this section for any taxable year shall not exceed the excess (if any) of the net unrealized built-in gain over the net recognized built-in gain for prior taxable years beginning in the recognition period.

(d) For purposes of this section:

(1) The term "net unrealized built-in gain" means the amount (if any) by which the fair market value of the assets of the corporation exceeds the aggregate adjusted basis of such assets as of the beginning of its first taxable year for which it is treated as an Alabama S corporation.

(2) a. The term "net recognized built-in gain" means, with respect to any taxable year in the recognition period, the lessor of (i) the amount which would be taxable income of the Alabama S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account, or (ii) such corporation's taxable income for such taxable year (determined as provided in subsection (b)(1) of section 40-18-175).

b. If, for any taxable year, the amount referred to in clause (i) of paragraph a. exceeds the amount referred to in clause (ii) of paragraph a., such excess shall be treated as a recognized built-in gain in the succeeding taxable year.

(3) The term "recognized built-in gain" means any gain recognized during the recognition period on the disposition of any asset except to the extent that the Alabama S corporation established that

a. Such asset was not held by the Alabama S corporation as of the beginning of the first taxable year for which it was an Alabama S corporation, or

b. Such gain exceeds the excess (if any) of the fair market value of such asset as of the beginning of such first taxable year, over the adjusted basis of the asset as of such time.

(4) The term "recognized built-in loss" means any loss recognized during the recognition period on the disposition of any asset to the extent that the Alabama S corporation establishes that

a. Such asset was held by the Alabama S corporation as of the beginning of the first taxable year referred to in subdivision (3), and

b. Such loss does not exceed the excess of the adjusted basis of such asset as of the beginning of such first taxable year, over the fair market value of such asset as of such time.

(5) a. Any item of income which is properly taken into account during the recognition period but which is attributable to periods



before the first taxable year for which the corporation was an Alabama S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

b. Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the first taxable year referred to in paragraph a. shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

c. The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this subdivision.

(6) If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the Alabama S corporation as of the beginning of the first taxable year referred to in subdivision (3)

a. Such asset shall be treated as held by the Alabama S corporation as of the beginning of such first taxable year, and

b. Any determination under subdivision (3)b. or (4)b. with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such first taxable year.

(7) The term "recognition period" means the ten-year period beginning with the first day of the first taxable year for which the corporation was an Alabama S corporation.

(8) a. Except to the extent provided in regulations, if an Alabama S corporation acquires any asset, and the Alabama S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of an Alabama C corporation, then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by paragraph b.

b. For purposes of this subdivision, the modifications of this paragraph are as follows: (i) The preceding subdivisions of this subsection shall be applied by taking into account the day on which the assets were acquired by the Alabama S corporation in lieu of the beginning of the first taxable year for which the corporation was an Alabama S corporation, and (ii) subdivision (1) of subsection (c) shall not apply.

(9) Any reference in this section to the first taxable year for which the corporation was an Alabama S corporation shall be treated

as a reference to the first taxable year for which the corporation most recently became an Alabama S corporation.

(e) The department of revenue shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

**Section 10.** Section 40-18-175 is hereby added to read as follows:

"§40-18-175. Tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25% of gross receipts.

(a) If for the taxable year an Alabama S corporation has earnings and profits at the close of such taxable year derived from years during which such corporation was an Alabama C corporation, and gross receipts more than twenty-five percent of which are passive investment income, then there is hereby imposed a tax on the income of such corporation for such taxable year. Such tax shall be computed by multiplying the excess net passive income by five percent.

(b) (1) For purposes of this section:

a. Except as provided in paragraph b. below, the term "excess net passive income" means an amount which bears the same ratio to the net passive income for the taxable year as (i) the amount by which the passive investment income for the taxable year exceeds twenty-five percent of the gross receipts for the taxable year, bears to (ii) the passive investment income for the taxable year.

b. The amount of the excess net passive income for any taxable year shall not exceed the corporation's taxable income for the taxable year as determined under section 40-18-161 without regard to the deduction under subdivision (14) of section 40-18-35 and under section 40-18-35.1.

(2) The term "net passive income" means passive investment income, reduced by the deductions allowable under this chapter which are directly connected with the production of such income (other than deductions allowable by subdivision (14) of section 14-18-35 and by section 40-18-35.1).

(3) The terms "passive investment income" and "gross receipts" shall have the same respective meanings as when used in 26 U.S.C. §1362(d)(3), as in effect from time to time.

(4) Notwithstanding subdivision (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the Alabama S corporation for

any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 40-18-174.

(c) If the Alabama S corporation establishes to the satisfaction of the department of revenue that it determined in good faith that it had no earnings and profits at the close of a taxable year derived from years during which it was an Alabama C corporation, and during a reasonable period of time after it was determined that it did have such earnings and profits, such earnings and profits were distributed, the department of revenue may waive the tax imposed by subsection (a) for such taxable year."

**Section 11.** Section 40-18-176 is hereby added to read as follows:

"§40-18-176. Nonresident shareholder composite returns.

(a) The department of revenue shall permit an Alabama S corporation to file composite returns and to make composite payments on behalf of some or all of its nonresident shareholders if there are one or more nonresident shareholders during any part of the taxable year. The department of revenue may permit composite returns and payments to be made by an Alabama S corporation on behalf of its resident shareholders.

(b) For purposes of this section, a "composite return" means an informational return similar in form to U.S. Treasury Department Schedule K-1 containing information concerning one or more Alabama S corporation shareholder's respective shares of income, deductions and losses passed through to them by virtue of their status as shareholders of an Alabama S corporation, any credit to which any such shareholder is entitled to claim by virtue of the Alabama S corporation's payment of tax on his behalf pursuant to subsection (e), and containing such other information as the department of revenue shall prescribe. For purposes of this section, a "composite payment" means a remittance of tax by the Alabama S corporation on behalf of the shareholder or shareholders to which the accompanying composite return relates, applying the highest marginal Alabama income tax rate applicable to individuals for the period in question.

(c) An Alabama S corporation shall file with the department of revenue, in the form prescribed by the department of revenue, the agreement of each nonresident shareholder of the corporation (1) to file a return and to make timely payment of all taxes imposed by this chapter on the shareholder with respect to the income of the Alabama S corporation, and (2) to be subject to personal jurisdiction in this State for purposes of the collection of unpaid income tax, together with related interest and penalties, from the nonresident

shareholder. If the Alabama S corporation fails timely to file the agreements required by the preceding sentence on behalf of each of its nonresident shareholders, then the corporation shall, at the times set forth in subsection (d) for the filing of such agreements, pay to this State on behalf of each nonresident shareholder in respect of whom an agreement has not been timely filed an amount equal to the highest marginal income tax rate applicable to individuals for the period in question multiplied by the amount of the shareholder's pro rata share of the income allocated and apportioned to this State under rules and regulations applicable to foreign corporations, as reflected on the corporations' return for the period in question. The payment made by the Alabama S corporation on behalf of a nonresident shareholder shall be considered a loan from the corporation to the shareholder, payable on demand, bearing interest from the date of the loan to the date of its payment, at the minimum "applicable Federal rate" with respect to demand instruments, as provided under 26 U.S.C. §7872, as in effect from time to time.

(d) The agreements required to be filed pursuant to subsection (c) shall be filed at the following times:

(1) At the time the annual return is required to be filed for the first taxable year for which the Alabama S corporation becomes subject to the provisions of this article, and

(2) At the time the annual return is required to be filed for any taxable year in which the Alabama S corporation had a nonresident shareholder on whose behalf such an agreement has not previously been filed.

(e) Any amount paid by the Alabama S corporation to this State pursuant to subsection (a) or (c) shall be considered to be a payment by the shareholder on account of the income tax imposed on the shareholder for the year in question."

**Section 12.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 13.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 14.** This Act shall be effective for all tax years or periods beginning after December 31, 1989.

Approved May 17, 1989

Time: 3:29 P M

Act No. 89-838

H. 987—Rep. White (G)

## AN ACT

To grant the City of Homewood the right to demolish unsafe buildings; and to provide further for the following: The procedure for a determination of the ownership of the real property or building and notice of a hearing; the procedure for holding the hearing before the city governing body; the procedure for appeal to the circuit court; the right of the city to obtain a lien for the cost of demolition; the authority to assess against property sold to the State of Alabama for taxes; the method of collection of assessments.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. AUTHORITY TO DEMOLISH UNSAFE BUILDINGS.** The City of Homewood shall have authority, after notice as provided herein, to move or demolish buildings and structures, or parts of buildings and structures, party walls and foundations when the same are found by the governing body of the city to be unsafe to the extent of being a public nuisance from any cause.

**Section 2. PROCEDURE GENERALLY; NOTICE TO REPAIR OR DEMOLISH; SERVING NOTICE.** The term "appropriate city official" as used in this subdivision shall mean any city official or city employee designated by the mayor or other chief executive officer of such city as the person to exercise the authority and perform the duties delegated by this subdivision to "appropriate city official." Whenever the appropriate city official of such city shall find that any building, structure, part of building or structure, party wall or foundation situated in any such city is unsafe to the extent that it is a public nuisance, such official shall give the person or persons, firm, association or corporation last assessing the property for state taxes and all mortgages of record notice by personally serving upon such person, firm, association or corporation a copy of said notice to remedy the unsafe or dangerous condition of such building or structure, or to demolish the same, within a reasonable time set out in said notice, which time shall not be less than sixty (60) days or suffer such building or structure to be demolished by such city and the cost thereof assessed against the property. In the event that such personal service is returned "Not Found" after not less than two attempts, such notice may be given by registered or certified mail. The mailing of such registered mail notice, properly addressed and postage prepaid, shall constitute notice as required herein. Notice of such order, or a copy thereof, prior to the delivery or mailing of the same as required by the immediately preceding sentence, shall also be posted at or within three (3) feet of an entrance to the building or structure, provided that if there is no entrance such notice may be posted at any location upon such building or structure.

**Section 3. REQUEST FOR HEARING; HEARING; APPEAL FROM DECISION; DEMOLITION BY CITY.** Within the time specified in such notice, but not more than sixty (60) days from the date such notice is given, any person, firm or corporation having an interest in such building or structure may file a written request for a hearing before the governing body of the city, together with his objections to the finding by the said city official that such building or structure is unsafe to the extent of becoming a public nuisance. The filing of such request shall hold in abeyance any action on the finding of such city official until determination thereon is made by such governing body. Upon holding such hearing, which hearing shall be held not less than ten (10) nor more than sixty (60) days after such request, or in the event no hearing is timely requested, the governing body, after the expiration of sixty (60) days from the date such notice is given, shall determine whether or not such building or structure is unsafe to the extent that it is a public nuisance. Notice of such meeting of the governing body, and that such determination will be made thereat, shall be published one time in a newspaper of general circulation in such city, not less than ten (10) days prior thereto. In the event that it is determined by such governing body that such building or structure is unsafe to the extent that it is a public nuisance, the governing body shall order such building or structure to be demolished. Such demolition may be accomplished by such city by the use of its own forces, or it may provide by contract for such demolition. Such city shall have authority to sell or otherwise dispose of salvaged materials resulting from such demolition.

Any person aggrieved by the decision of the governing body at such hearing may, within thirty (30) days thereafter, appeal to the circuit court upon filing with the clerk of said court notice of said appeal and bond for security of costs in the form and amount to be approved by said circuit clerk. Upon filing of said notice of appeal and approval of the bond, the clerk of the court shall serve a copy of said notice of appeal on the clerk of said city and said appeal shall be docketed in said court, and shall be a preferred case therein. The clerk of said city shall, upon receiving such notice, file with the clerk of the court a copy of the findings and determination of the governing body in proceedings and trial shall be held without jury upon the determination of the governing body that such building or structure is unsafe to the extent that it is a public nuisance.

**Section 4. ASSESSMENT OF COSTS; NOTICE PRIOR TO ASSESSMENT; COSTS TO BE LIEN.** Upon demolition of such building or structure, the appropriate city official shall make report of the governing body of the costs thereof, and such governing body shall adopt a resolution fixing the costs which it finds were reasonably incurred in such demolition and assessing the same against the

property; provided, however, the proceeds of any moneys received from the sale of salvaged materials from said building or structure shall be used or applied against the cost of said demolition; and provided, further, that any person, firm or corporation having an interest in said property may be heard at such meeting as to any objection he may have to the fixing of such costs or the amounts thereof. The city clerk of such city shall give not less than fifteen (15) days' notice of the meeting at which the fixing of such costs are to be considered by publication in a newspaper of general circulation in such city of a notice that the governing body of such city at such meeting will consider the fixing of such costs thereat. The fixing of said costs by the governing body shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and thus made and confirmed shall constitute a lien on said property for the amount of such assessment. Said lien shall be superior to all other liens on said property except liens for taxes, and shall continue in force until paid. The city clerk of the city shall mail a certified copy of the resolution by registered or certified mail to the person last assessing the property for taxes and all mortgages of record, and a certified copy of such resolution shall be published in the manner and as prescribed for the publication of municipal ordinances, and a certified copy of such resolution shall also be filed in the office of the judge of probate of the county in which such city is situated.

**Section 5. AUTHORITY TO ASSESS COSTS AGAINST LOTS PURCHASED BY STATE; REDEMPTION NOT TO DISCHARGE LIEN.** The city shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where any such assessment is made against such lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate to discharge, or in any manner affect the lien of such city for such assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state for the nonpayment of taxes, shall take the same subject to such assessment.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:28 P.M.

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Act No. 89-839

H. 993—Rep. Burke

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the Town of Valley Head in DeKalb County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the Town of Valley Head in DeKalb County are hereby altered, rearranged and extended so as to include within the corporate limits of said town, in addition to the lands now included, all of the following territory, to-wit:

The North 1/2 of the Northeast 1/4, the Southwest 1/4 of the Northeast 1/4, the South 1/2 of the Northwest 1/4, the Northeast 1/4 of the Southwest 1/4, and the Northwest 1/4 of the Southeast 1/4, all in Section 6, Township 6 South, Range 10 East.

Also the Northwest 1/4 of the Northwest 1/4 of Section 5, Township 6 South, Range 10 East.

All lying in DeKalb County, Alabama, and containing 320 acres, more or less.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

**Section 3.** In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the Town of Valley Head is on file in the office of the Judge of Probate in DeKalb County, Alabama, and such map is open to the inspection of the public.

Approved May 17, 1989

Time: 3:24 P.M.



Act No. 89-840

H. 994—Rep. Burke

## AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the Town of Hammondville in DeKalb County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the Town of Hammondville in DeKalb County are hereby altered, rearranged and extended so as to include within the corporate limits of said town, in addition to the lands now included, all of the following territory, to-wit:

All that part of the North 1/2 of the Northeast 1/4 of Section 19, Township 5 South, Range 10 East lying north and west of an unnamed and unpaved county road, said road being an extension of PALMER ROAD. Also all that part of the Southeast 1/4 of the Southeast 1/4 of Section 18, Township 5 South, Range 10 East lying North and West of said road.

Said tracts lying in DeKalb County, Alabama, and containing 65 acres more or less.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

**Section 3.** In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the Town of Hammondville is on file in the office of the Judge of Probate in DeKalb County, Alabama, and such map is open to the inspection of the public.

Approved May 17, 1989

Time: 3:25 P.M.

Act No. 89-841

H. 1002—Rep. Slaughter

## AN ACT

Relating to Jefferson County; establishing a residency requirement for Jefferson County Commissioners.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Jefferson County Commissioners shall have been citizens and residents of the County Commission district they represent for one year next before their election and shall reside in their respective districts during their terms of office.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:27 P.M.

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Act No. 89-842

H. 1030—Rep. McClain

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Brighton in Jefferson County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Brighton in Jefferson County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

### PARCEL I

Begin at the Northeast corner of the Northeast 1/4 of Section 28 Township 18 South Range 4 West, said point being on the present West boundary of the City of Brighton Corporate Limit line. Thence South along the East line of the said 1/4 section to the Northeast corner of the Southeast 1/4 of Section 28; thence continue South along the East line of the said Southeast 1/4 for a distance of 591 feet; thence right an angle of 91 degrees 04'01" in a Westerly direction 32.7 feet to a point on the West boundary line of Jaybird Road; thence continue last described course 1170.3 feet to a point on the East R.O.W. of Interstate Hwy I-59; thence Northwest along I-59 R.O.W. to a point on the West line of the Northeast 1/4 of the Southeast 1/4 of the said Section 28; thence North to the Northwest corner of the said 1/4, 1/4 section; thence continuing North and along the East R.O.W. of I-59 to the Northwest corner of property

owned by Jefferson County Board of Education; thence Northwest for a distance of 270 ft, Northeasterly continuing to follow I-59 278 feet, Northeast 470 feet, Northeast 240 ft, Northerly 350 feet, Northeast 680 feet to point on the North line of the Northeast 1/4 of Section 28; thence East along North line for 360 feet to the Point of Beginning. Excluded from the above is all that certain property owned by Jefferson County Board of Education.

### PARCEL III

Commence at the Northwest corner of the Northeast 1/4 of Section 34 Township 18 South Range 4 West; thence East along the North line of the Northeast 1/4 a distance of 560 feet more or less to the Northeast corner of Lot 20 Blk 3 Survey of East Brighton as Recorded in Plat Book 5 Page 98 said point being the Point of Beginning; thence continue East along the last mentioned course 1075 feet to a point on the South R.O.W. of Valley Creek Canal; thence Southeasterly and along the Northerly boundary of Lot 1 Broadmoor Estates Subdivision as recorded in Plat Book 14 Page 99 a distance of 190 feet more or less to a point on the Northwesterly boundary of U.S. Hwy 11 R.O.W. thence Southwesterly along said R.O.W. a distance of 1540 feet to the Southeast corner of Lot 12 Broadmoor Estates; thence Northwesterly 386 feet to a point on the Southeast boundary line of Valley Creek Canal; thence Southwesterly along canal to the West line of the Northeast 1/4 of Section 34; thence North along said West line of the 1/4 section for a distance of 1150 feet to a point on the South line of Lot 13 Blk 3 Survey of East Brighton; thence Northeasterly and along the Southeastern boundary of said survey to its intersection with the North line of the said Northeast 1/4 section of Section 34 and to the Point of Beginning.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:26 P.M.

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Act No. 89-843

H. 1071—Reps. Gray, Perdue, Spratt,  
Newton (D), Beers, Rogers,  
Petelos, Curry, Seibels,  
Slaughter, Wright,

McClain, McDowell and  
White (G)

## AN ACT

To authorize the pension board established by Act Number 393 of the 1975 Regular Session of the Legislature of Alabama for officers and employees of library board in cities having a population of 300,000 or more according to the 1970 or any subsequent census, to increase benefits which the said pension system provides for members of the system and to increase benefits which the said pension system provides for other persons on account of such other person's dependence upon or relation to members of the system; and to prescribe the terms and conditions on which said pension board shall be authorized to increase such benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. As used herein, the following terms have the meanings here given them: "Act No. 393 of 1975" or "said Act" means Act No. 393 of the Regular Session of the Legislature of Alabama of 1975, approved on September 18, 1975, which Act amended Act 453 of the 1967 Regular Session of the Legislature of Alabama, establishing the Library Board Employees Pension and Relief Fund, and which Act appears on pages 976 through 995 of the Acts of Alabama of 1975; "the system" means the pension and relief fund established by said Act; "Library Board" means the members of the Library Board of such city; "Governing Body" means the City Council, City Commission, or other body invested with legislative power to govern such city; the "Pension Board" means the Board of Managers established by said Act; "member of the system" means any person who is a member of the system, whether such member retired on a pension or benefit prior to or after the adoption of the Act; "benefit of the system" means any benefit provided for any member of the system or for any person because of such person's relation to a member of the system.

**Section 2.** Upon and after the adoption of this Act the Pension Board shall, upon approval by resolution of the Library Board, be authorized to provide for an increase in benefits of the system, subject to the terms and conditions herein stated below in this Act.

The Pension Board shall not increase any benefit unless prior to such increase the Pension Board has obtained the approval by resolution of the city's governing body and written opinion of an enrolled actuary to the effect that the funds and assets of the system and the anticipated receipts and liabilities of the system are such that the system will be able to provide for and pay the increase.

**Section 3.** Before increasing any benefit, the Pension Board shall consider such increase at a public meeting of the Pension Board. Not less than thirty (30) days prior to such meeting the Pension Board shall give written notice to members of the system of the

time and place at which said meeting will be held. At said meeting the Pension Board shall accord any member of the system, or any other interested person, the right to be heard on the subject of the increase in benefits.

**Section 4.** The Pension Board shall be authorized to establish rules and regulations regarding increases in benefits of the system. Any increase in benefits shall be subject to the rules and regulations which apply to making a change in benefits. Any benefit increase granted hereunder shall be rescinded if the system does not maintain funds sufficient to pay the cost of such increase.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:30 P.M.

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Act No. 89-844

H. 1072—Reps. Biddle and Payne

### AN ACT

Relating to Jefferson County, to limit the amount of occupational license fees which can be levied or collected by the county government.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The authority of the governing body of Jefferson County, of the State of Alabama, to levy or collect an occupational license fee, or any similar fee or tax, on or from individuals, is hereby limited as follows:

A. No such fee or tax shall exceed one-half of one percent of income, wage or salary.

B. No such fee or tax shall be increased without the approval of the Alabama Legislature.

**Section 2.** No authorization to levy or collect any occupational license fee, or similar tax or fee, is hereby conferred. This act shall not create any additional licensing or taxing authority.

**Section 3.** Any law or act in conflict herewith is hereby repealed to the extent of such conflict.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:31 P.M.

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Act No. 89-845

H. 1078—Rep. Newman

AN ACT

Relating to Lamar County; providing for the establishment of a consolidated and unified system of assessment and collection of taxes under the supervision of a county revenue commissioner; prescribing the powers, duties, term of office and compensation of said county revenue commissioner, and providing for his election; abolishing the county offices of tax assessor and tax collector in Lamar County; and providing for a referendum election.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** At the expiration of the terms of office, or if a vacancy occurs in either the office of tax assessor or the office of tax collector of Lamar County before such date, then immediately upon the occurrence of such vacancy there shall be established the office of county revenue commissioner in Lamar County. If such office is established upon the occurrence of a vacancy in either the office of tax assessor or tax collector, then the tax assessor or tax collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term for which he was elected. A revenue commissioner shall be elected at an election called for that purpose and every six years thereafter. He shall serve for a term of office of six years.

**Section 2.** The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for ad valorem taxation, the collection of such taxes, the keeping of records and the making of reports concerning assessments for and the collection of taxes.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

**Section 4.** Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed

by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner in the courthouse and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

**Section 6.** The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of any duty imposed by law on any such officers and hereby transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his office, the county revenue commissioner will receive a minimum salary of \$35,000 per annum, as provided by section 40-6A-2, Code of Alabama 1975, payable in twelve equal monthly installments, with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office. If no action is taken by the county commission before the county revenue commissioner takes office at each term, his salary will be \$35,000.

**Section 7.** The offices of tax assessor and tax collector of Lamar County are hereby abolished effective on the last day of the term to which they are elected, or on such earlier date, as is prescribed in Section 1 hereof, if a vacancy occurs in either the office of tax assessor or tax collector.

**Section 8.** It is the purpose of this act to conserve revenue and promote the public convenience in Lamar County by consolidating the offices of tax assessor and tax collector into one county office.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of

Lamar County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, general or primary election held in Lamar County next following final passage of this act. Notice of the election shall be given by the judge of probate of Lamar County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law abolishing the offices of tax assessor and tax collector and establishing in lieu thereof the office of revenue commissioner? Yes ( ☐ ) No ( ☐ ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Lamar County shall certify the results of the election to the secretary of state immediately after the returns have been certified.

**Section 12.** If the office of tax assessor or tax collector should become vacant between the time of ratification of this act by the electors of Lamar County and the expiration of the term of office of either the tax assessor or tax collector, this act shall become effective immediately and the election thereon shall be called within forty-five days of such vacancy.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:32 P.M.

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Act No. 89-846

H. 1079—Rep. Mathis

## AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Geneva in Geneva County; and to repeal sections 2 and 3 of Act No. 499, H. 566, 1961 Regular Session (Acts 1961, p. 597), relating to ad valorem taxation exemptions for certain territory within the corporate limits of the municipality of Geneva.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Geneva in Geneva County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

The N 1/2 of NW 1/4 of Section 24, Township 1 North, Range 21 East; containing 80 acres more or less.

**Section 2.** Sections 2 and 3 of Act No. 499, H. 566, 1961 Regular Session (Acts 1961, p. 597), relating to ad valorem taxation exemptions for certain territory within the corporate limits of the municipality of Geneva, are hereby specifically repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:33 P.M.

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Act No. 89-847

H. 1081—Rep. Blake

### AN ACT

Relating to St. Clair County; amending Section 16 of Act No. 1728, H. 2522, 1971 Regular Session, which provides for travel expenses incurred by the members of the county commission in road inspections, so as to provide further for such expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16, Act No. 1728, H. 2522, is hereby amended to read as follows:

“Section 16. In carrying out the duties imposed by the provisions of this Act, each member of the county commission may be reimbursed for travel and actual expenses incurred on official business outside of the County. The above expenses are in addition to any salary or monthly expense allowance now authorized.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:34 P.M.

Act No. 89-848

H. 1086—Rep. Warren

## AN ACT

Relating to Conecuh County; to repeal Sections 8 and 9 of Act No. 86-322 of the 1986 Regular Session which relates to the composition, power and duties of the county governing body, so as to repeal the provisions pertaining to the county administrator and the county engineer.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 8 and 9 of Act No. 86-322 of the 1986 Regular Session, relating to Conecuh County are hereby repealed.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:35 P.M.

Act No. 89-849

H. 1087—Rep. Lindsey

## AN ACT

Relating to Cleburne County; fixing the fee for the issuance of pistol permits in the county and providing for the deposit of such fees in a fund known as the Sheriff's Law Enforcement Fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Cleburne County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Title 13A-11-75, Code of Alabama 1975, shall be \$10.00 for persons up to 65 years of age and \$5.00 for persons 65 years of age or older. Said fees shall be collected by the sheriff.

**Section 2.** Any and all monies collected under Section 1 of this act shall be deposited by the sheriff of Cleburne County in any bank located in Cleburne County selected by the sheriff, into a fund known as the Sheriff's Law Enforcement Fund. The Sheriff's Law Enforcement Fund shall be drawn upon by the sheriff of Cleburne County or his appointed agent and shall be exclusively for law enforcement purposes in the public's interest and in the discharge of the sheriff's office as the sheriff sees fit. The establishment of the Sheriff's Law Enforcement Fund and the use of such funds shall in no way diminish or take the place of any other imbursement or

other source of income established for the sheriff or the operation of his office.

**Section 3.** All laws or parts of laws in conflict with this act shall be, and they are hereby, repealed in the extent that they so conflict herewith.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:36 P.M.

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Act No. 89-850

H. 57—Rep. Blakeney

### AN ACT

To authorize the Department of Human Resources to establish and administer a welfare employment program; to require certain applicants for and recipients of public assistance to participate in the employment program; and to repeal Sections 38-11-1 through 38-11-12 of the Code of Alabama 1975 relating to an Alabama human resources board and public works program for certain persons on public assistance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The intent of this act is to assist public assistance applicants and recipients to become wage earning, self-supporting citizens of the State of Alabama. Thus, through the provisions of this act, the Department of Human Resources shall develop and coordinate employment related programs, training activities including work experience, vocational training, job finding skills, remedial education, and social services with the goal of reducing welfare dependency and the costs thereof to the State of Alabama; to improve the participants' economic quality of life, to improve personal functioning through acquisition of general education and parenting skills, and to remove barriers to employment and financial independence.

**Section 2.** The Department of Human Resources shall establish and administer a welfare employment program for persons applying for, or receiving, public assistance in the State of Alabama. The department shall develop program policy, criteria, requirements, and procedures and issue rules and regulations for governance of the program, insofar as federal guidelines permit, and shall assume program management responsibilities including budget planning, cost

accounting, data collecting and reporting, evaluation and assessment of program performance, and standards for effective use of distributed funds. The program shall include development of employment strategies, employment-related programs and activities and family support services directed toward affecting the intent and goals of this act.

**Section 3.** The Department of Human Resources shall seek federal funds, as such are available, to carry out work-related requirements and activities for public assistance applicants and recipients who are required, or permitted, by federal law to be referred to an employment-related activity. Program size, requirements, benefits and services shall be contingent upon the availability of funds and on the program's demonstrated cost effectiveness. The department may also seek and receive other public or private funds, donations, or in-kind services to carry out the program activities of this act.

**Section 4.** Every applicant for and recipient of public assistance, except those exempted by federal law or regulation, shall be required to register and participate in programs and activities of the Alabama welfare employment program. The state may exercise exemption options under federal law. Exempt applicants and recipients of public assistance may volunteer to register and participate in the Alabama welfare employment program. Mandatory participants shall be subject to sanctions, in accordance with federal law, if they fail to comply with the requirements of the program.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed, and Sections 38-11-1 through 38-11-12, Code of Alabama 1975, are hereby specifically repealed.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:03 P.M.

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Act No. 89-851

H. 856—Rep. Ford

## AN ACT

Relating to the City of Gadsden in Etowah County; authorizing the governing body to levy an additional ad valorem tax to be used for capital outlay purposes for

the school system; and providing for a referendum for approval of the tax by the qualified electors of the city.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Pursuant to subsection (f) of Amendment No. 373 of the Constitution of Alabama of 1901 and a resolution heretofore adopted by the governing body of the City of Gadsden after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax in the amount of 10 mills on each dollar of taxable property in the city. The revenues from said tax shall be paid to the Gadsden City school system to be used for capital outlay purposes.

**Section 2.** The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors who vote on the proposed increase at a special election called and held for such purposes pursuant to the provisions of subsection (f) of Amendment No. 373 of the Constitution.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:21 P.M.

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Act No. 89-852

H. 168—Rep. Williams

### AN ACT

Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1990, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1990, there is hereby appropriated to the Department of Agriculture and Industries out of any monies in the state treasury not otherwise appropriated the sum of Two Hundred Thousand Dollars (\$200,000), or

so much thereof as may be necessary for the fiscal year, which said sum shall be used and expended by said department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the Commissioner of Agriculture and Industries or the State Veterinarian for the purpose of arresting, eradicating and preventing the spread of hog cholera disease, African swine fever and other diseases of swine. The amount of any payments to owners of swine from the appropriation herein made shall be determined pursuant to the procedure and method set forth under Sections 2-15-160 through 2-15-168 of the Code of Alabama 1975.

**Section 2.** The appropriation herein made shall be conditioned upon the condition of the general fund and with the approval of the Governor.

**Section 3.** This Act shall become effective on October 1, 1989.

Approved May 17, 1989

Time: 3:05 P.M.

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Act No. 89-853

H. 289—Rep. Dillard

### AN ACT

To amend Section 38-2-7, Code of Alabama 1975, which creates local county boards of human resources and specifies who may serve as members of such local boards, so as to state that no person who is related by consanguinity or affinity within the fourth degree or nearer under the civil law to any person who is elected to public office, who is a candidate for public office, or who is an employee of the local Department of Human Resources shall be a member of any such county board of human resources.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 38-2-7, Code of Alabama 1975, is hereby amended to read as follows:

“§38-2-7.

“There is hereby created in each county a county board of human resources, which shall consist of seven members, not less than two of whom shall be women, selected by the county commission from the citizenship of the county on the basis of their recognized interest in the public welfare; provided that in counties in which there are cities having a population of 60,000 or more, according to the last federal census, the city commission or other governing body of the city shall have equal authority with the county commission in selecting the membership of the county board of human resources.

No person holding an elective public office, no person who is a candidate for election to a public office, no person who is an employee of the county department of human resources and no person who is related by consanguinity or affinity within the fourth degree or nearer under the civil law to any such officer or employee shall be a member of such county board of human resources. The members of said board shall be appointed for a term of six years, and vacancies shall be filled for the unexpired term in the same manner as above provided. The county board shall elect from its members a chairman and a secretary to serve at its pleasure. The county board shall hold meetings under rules to be established by it in conformity with the regulations of the state board, and such additional meetings as may be called by the chairman. The presence of four members at any regular or special meeting shall constitute a quorum for the transaction of all business. Members of the county board shall serve without compensation for their services as members, but shall be reimbursed for the amount of their traveling and other expenses actually paid out while in attendance at the meetings of the county board or on business of the department.

"The county board, subject to the provisions of the merit system, shall appoint a county director, who shall be the executive officer of the county department, and the appointment shall be made without regard to political affiliation. The tenure of the county director shall be at the pleasure of the county board. Upon request of the local board, the state personnel department shall establish a county register of eligibles who are residents of the county in which the vacancy exists. If no appointment is made from the local register or there is no local register, then appointment shall be made from the statewide register.

"It shall be the further duty of the county board to meet from time to time with the county director and to point up unmet needs in the county, to advise concerning economic conditions in the county which might affect the welfare program, to assist in informing the citizens of the public welfare program, to cooperate with other agencies, individuals and organizations in the community in the development of facilities designed for human betterment, and to advise concerning changes which would make for a more effective and efficient public welfare program."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:08 P.M.

Act No. 89-854

H. 354—Rep. Grayson

## AN ACT

To amend Section 16-28-4, Code of Alabama, 1975, relating to the cutoff enrollment date of school children entering Grade One or Kindergarten so as to change the cutoff enrollment date from October 1 to September 1 of each year; to ensure that students already enrolled in Kindergarten can proceed to Grade One notwithstanding this Act; and to provide that no board of education shall lose any teacher unit as a result of this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-28-4, Code of Alabama, 1975, is hereby amended to read as follows:

“§16-28-4.

“(a) A child who is six years of age on or before September 1 shall be entitled to admission to the public elementary schools at the opening of such schools for that school year or as soon as practicable thereafter; a child who is under six years of age on September 1 shall not be entitled to admission to such schools during that school year; except, that an underage child who transfers from the first grade of a school in another state may be admitted to school upon approval of the board of education in authority, and an underaged child who has moved into this state having completed or graduated from a mandated Kindergarten program in another state shall be entitled to admission to the public elementary schools regardless of age. A child who becomes six years of age on or before February 1 may, on approval of the board of education in authority, be admitted at the beginning of the second semester of that school year to schools in school systems having semiannual promotions of pupils.

(b) A child who is five years of age on or before September 1 shall be entitled to admission to the local public school Kindergartens at the opening of such schools for that school year or as soon as practicable thereafter; a child who is under five years of age on September 1 shall not be entitled to admission to such schools during that school year; except that, an underaged child who transfers from the public school Kindergarten in another state may be admitted to local public Kindergarten on the prior approval of the local board of education on a space available basis. The aforementioned underage children transferring from the public school Kindergartens of another state, upon successful completion of the Kindergarten in the local public schools, will then be allowed admission to the First Grade of the local public schools.”



**Section 2.** Students who are already enrolled in a public, private, or church school Kindergarten may be allowed, if requested by the parent, to enroll in Grade One of a public school, consistent with state law, State Board of Education policies, and local board policies.

**Section 3.** No public school system shall lose any teacher unit as a result of this Act. The State Board of Education is authorized to adopt policies for local boards of education for the implementation of this section.

**Section 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 6.** This act shall become effective with the commencement of the 1990-91 scholastic year.

Approved May 17, 1989

Time: 3:09 P.M.

Act No. 89-855

H. 356—Reps. Turnham, Hamilton,  
Mikell and Williams

### AN ACT

To create and establish a special abandoned mine land reclamation trust fund to receive and retain up to 10 per centum of the appropriated funds granted annually by the Secretary of the U.S. Department of Interior for the reclamation of abandoned mine lands in Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created in the state treasury a special abandoned mine reclamation trust fund to receive and retain up to 10 per centum of the appropriated funds granted annually by the Secretary of the U.S. Department of Interior for the reclamation of abandoned mine lands in Alabama. All moneys so deposited by the Director of the Department of Industrial Relations shall accrue interest, and together with all interest earned, shall be available for expenditure by the Director of the Department of Industrial Relations after August 3, 1992, solely to accomplish the purposes set forth in Section 9-16-122(b) of the Code of Alabama 1975. All moneys in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided

by law for other special trust funds in the state treasury. Moneys in this special trust fund shall be separately accounted for and continuously available to the Director of the Department of Industrial Relations for expenditure as herein provided and shall not lapse at any time.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:10 P.M.

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Act No. 89-856

H. 521—Rep. Willis

### AN ACT

To provide further for the issuance of distinctive license plates for handicapped persons; to amend Sections 40-12-300, 40-12-302, and 32-6-230 through 32-6-234, Code of Alabama 1975, so as to provide further for the design of the plates; to define "temporarily handicapped individuals" and to provide for parking in handicapped zones by such persons; and to provide for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 40-12-300 and 40-12-302, Code of Alabama 1975, are hereby amended to read as follows:

"§40-12-300.

"The distinctive license plates here provided for shall be prepared by the commissioner of revenue and shall be issued through the judge of probate or license commissioner of the several counties of the state in like manner as are other motor vehicle license plates or tags and such officers shall be entitled to their regular fees for such service. Applicants for such distinctive plates shall present to the issuing official medical proof satisfactory to said official that he or she is a handicapped individual as defined in section 32-6-230. Said person upon presentation of said proof shall be issued the requested number of distinctive license plates or tags upon the payment of the regular license fee for tags, as provided by law, and an additional fee of three dollars for each plate or tag issued which shall be paid to the

department of corrections to cover cost of production. Said applicant shall pay the additional \$3.00 fee for each license plate issued in the future, however, in those years in which a decal is issued said applicant shall pay the regular license fees for tags, as provided by law. The distinctive license plates or tags so issued shall be used only upon and for personally-owned, private, passenger vehicles; to include vans, station wagons and pickup trucks, registered in the name of the person making application therefor, and when so issued to such applicant shall be used upon the vehicle for which issued in lieu of the standard license plates or license tags normally issued for such vehicle. The provisions of this division shall not be construed so as to require a handicapped person to display a distinctive handicapped license plate or tag. It is hereby specifically provided that the provisions of this division shall be construed in *pari materia* with Section 32-6-231, Code of Alabama 1975."

"§40-12-302.

"The design of motor vehicle license plates or tags for handicapped persons shall be as follows:

"(1) The tag shall be the standard size.

"(2) On the top center of the tag shall appear the word 'Alabama.'

"(3) On the top right corner of the tag shall appear a white heart in which shall be inscribed 'Heart of Dixie.'

"(4) In the center of the tag shall appear the tag number and preceding said number shall be the international symbol for the handicapped.

"(5) On the bottom left corner of the tag, the month of the year decal shall be affixed.

"(6) On the bottom right corner of the tag, the year decal shall be affixed.

"(7) On the bottom center portion of the tag shall appear the word 'Handicapped.'

"(8) The tag shall be composed of a color combination prescribed by the commissioner of the department of revenue."

**Section 2.** Sections 32-6-230, 32-6-231, 32-6-232, 32-6-233, 32-6-233.1 and 32-6-234, Code of Alabama 1975, are hereby amended to read as follows:

"§32-6-230.

"(a) For purposes of this division the term 'handicapped individual' means any person having a permanent mental or physical handicap, which limits mobility to the extent that the individual

would have difficulty safely walking alone a distance of 50 feet or more.

“(b) For purposes of this division the term ‘temporarily handicapped individual’ means any person having a temporary (for a period up to one year) mental or physical handicap, which limits mobility to the extent that the individual would have difficulty safely walking alone a distance of 50 feet or more.”

“§32-6-231.

“Beginning with the implementation of the staggered system of motor vehicle license plate registration, any person who submits to the judge of probate, license commissioner or other issuing authority medical proof satisfactory to the commissioner of revenue that he or she is a handicapped individual, as herein defined, shall be issued a distinctive license plate decal and a special identification placard displaying the international symbol of access thereby designating the driver of the vehicle or the passenger as being a handicapped person. The distinctive license decals and placards provided herein shall be prepared by the commissioner of revenue and shall be issued in the same manner as motor vehicle license plates and the issuing officers shall be entitled to their regular fees for such services. Provided, however, the fee for these distinctive license decals and placards shall not be greater than the regular license tax prescribed by law. The commissioner of revenue is authorized to make any rules or regulations necessary to carry out the provisions of this division. The ‘temporarily handicapped’ driver or ‘temporarily handicapped individual’ without a driver’s license or an automobile shall be issued a temporary identification placard for a period valid up to one year upon submission of satisfactory medical proof to the judge of probate, covered under Section 32-6-230(b).”

“§32-6-232.

“The handicapped individuals and ‘temporarily handicapped individuals’ to whom these distinctive license decals and placards are issued shall be allowed to park for unlimited periods in parking zones designated for handicapped persons. Provided, however, that such handicapped persons shall pay parking fees the same as any other person. The provisions of this section shall not apply to zones where stopping, standing, or parking is prohibited to all vehicles or which are reserved for special types of vehicles, nor will these provisions apply where there is a local ordinance prohibiting parking during heavy traffic periods during morning, afternoon, or evening rush hours, or where parking would clearly present a traffic hazard. All parking places for handicapped persons shall comply with ANSI A. 117.1 (1980) standards.”

“§32-6-233.

“Any person who is not a handicapped individual, or ‘temporarily handicapped individual,’ as herein defined, and who willfully and falsely represents himself or herself as a handicapped or a ‘temporarily handicapped’ person to obtain the distinctive decals and placards prescribed by this division or misuses or abuses the parking privilege protected by this division, or owns a vehicle bearing the distinctive license decals and is not entitled to do so under the provisions of this division, shall be guilty of a Class B misdemeanor and, upon conviction, shall be punished according to law.”

“32-6-233.1.

“(a) It shall be unlawful for any person who does not have a distinctive handicapped decal or placard, or ‘temporarily handicapped’ placard as provided in section 32-6-231, to park a motor vehicle in a parking place designated for the handicapped at any place of public accommodation, amusement or resort or any other place to which the general public is invited, even though located on private property, and upon conviction thereof, shall be fined \$15.00 per occurrence. Such fines shall be paid in the same manner as other municipal fines for driving violations.

“(b) Any authorized municipal, county or state law enforcement officer may go onto private property to enforce the provisions of this section.

“(c) The provisions of this section shall be held in pari materia with all other provisions of law related to illegal handicapped parking violations; provided, however, that all laws or parts of laws which conflict with the provisions of this section are hereby repealed.”

“§32-6-234.

“The commissioner of revenue is hereby authorized to enter into reciprocal agreements with other states concerning parking privileges for handicapped and ‘temporarily handicapped’ individuals.”

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** The provisions of Section 1 of this act shall have retroactive effect to January 1, 1989.

**Section 6.** The provisions of Section 2 and remaining sections of this act shall become effective on October 1, 1989, after its passage and approval by the Governor, or its otherwise becoming a law.

Approved May 17, 1989

Time: 3:12 P.M.

Act No. 89-857

H. 793—Reps. McDowell, Escott,  
Starkey, Rogers,  
McClain, Grayson,  
Venable, Perdue, Bugg,  
Kennedy, Zoghby,  
Buskey (JE), Goodwin,  
Hamilton and Britnell

### AN ACT

To amend Code of Alabama 1975, § 15-10-3 which provides the circumstances under which a law enforcement officer may arrest without a warrant, so that a law enforcement officer may arrest without a warrant in certain specified cases; and to provide for reports of investigations of family violence, severability, repeal of conflicting laws and the effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This Act shall be entitled the Law Enforcement Protection Act of 1989.

**Section 2.** Code of Alabama, 1975, §15-10-3, is hereby amended to read as follows:

§15-10-3. Arrest without warrant—When and for what allowed.

“(a) An officer may arrest any person without a warrant, on any day and at any time for:

“(1) Any public offense committed or breach of the peace threatened in his presence;

“(2) When a felony has been committed, though not in his presence, by the person arrested;

“(3) When a felony has been committed and he has reasonable cause to believe that the person arrested committed it;

“(4) When he has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed;

“(5) On a charge made, upon reasonable cause, that the person arrested has committed a felony;

“(6) When he has actual knowledge that a warrant for the person’s arrest for the commission of a felony or misdemeanor has been issued, provided such warrant was issued in accordance with the provisions of this chapter. However, upon request he shall show the warrant to the arrested person as soon as possible. If the officer does not have the warrant in his possession at the time of arrest he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued;

“(7) when he has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction; and

“(8) Whenever an offense involves family violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor. Family violence is defined as any incident resulting in the abuse, assault or the attempt or threats thereof, between family or household members. Abuse is further defined as any offense defined under Code of Alabama, 1975, §13A-6-60 through 70, or abusing children under §26-15-1 through 4. Assault is further defined as any offense defined under Code of Alabama, 1975, §13A-6-20 through 25. Family or household members include spouses, former spouses, parents, children, or any other persons related by blood or marriage, a person with whom the victim has a child in common or a present or former household member.

(b) Whenever a law enforcement officer investigates an allegation of family violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 17, 1989

Time: 3:18 P.M.

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Act No. 89-858

H. 773—Rep. Hogan

### AN ACT

To amend §32-6-291, Code of Alabama 1975, to provide guidance for the design of the distinctive motor vehicle license plate or tag authorized to nondisability retirees

of the United States Armed Forces as provided for in §32-6-290, National Guard retirees and military reservists with a minimum of 20 years; and to establish an effective date of issuance for such license plates or tags.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-6-291, Code of Alabama 1975, is hereby amended as follows:

“§32-6-291.

“Retired military persons, National Guard retirees and military reservists with a minimum of 20 years may, upon application and subject to the provisions of this division, be issued distinctive motor vehicle license plates or tags identifying these persons with such retirement. The special license plate as provided for herein shall, in lieu of the number now prescribed by law, be inscribed with the words “United States Armed Forces Retired,” and shall designate the branch of service of the retiree as provided for by §32-6-290, shall be inscribed with an identifying number prescribed by the department of revenue, and shall have imprinted thereon such other letters and figures as provided for by other applicable sections of this article.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective January 1, 1990, following its passage and approval by the Governor or its otherwise becoming a law.

Approved May 17, 1989

Time: 3:17 P.M.

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Act No. 89-859

H. 70—Rep. Marks

## AN ACT

To amend Section 38-10-8, Code of Alabama 1975, which provides that the Department of Human Resources shall collect and disburse support payments, so as to provide that said support collections shall be deposited by the state treasurer in an interest-bearing account; to require the treasurer to credit all interest to the Public Welfare Trust Fund; and to appropriate said interest for general welfare purposes.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 38-10-8, Code of Alabama 1975, is hereby amended to read as follows:

“§38-10-8.

“Support collections, in cases in which an assignment has been made to the department and after the support payment has been made to the appropriate collection agent pursuant to the provisions of this article, shall be paid directly to the state department and distribution shall be made by said state department in accordance with the provisions of the Social Security Act and amendments thereto. Support collections in cases where there is not an assignment to the department but services are otherwise being provided pursuant to the requirements of Title IV-D shall be accounted for and distributed by the appropriate collection agent in accordance with rules published and provided by the department. The state treasurer shall deposit collections of support received by the state department into a separate interest-bearing account. The state treasurer shall at the end of each quarter credit any and all interest accruing on said interest-bearing account to the Public Welfare Trust Fund. Said interest shall be used for general welfare purposes and is hereby appropriated therefor.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:37 P.M.

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Act No. 89-860

H. 108—Rep. White (L)

## AN ACT

To amend Section 34-38-1, Code of Alabama, 1975, so as to include the definition of hygienist in Section 34-38-1, and to bring hygienists under the provisions of this chapter. To amend Section 34-38-2, Code of Alabama, 1975, relating to the limitation of expenses of the Alabama impaired professionals' committee, so as to exclude the cost of treatment or rehabilitation programs recommended by the committee to individuals subject to the provisions of Section 34, Chapter 38 of the Code of Alabama 1975, and to preserve the authority of the regulatory board or boards to take disciplinary action against individuals subject to the provisions of this section. To amend Section 34-38-6, Code of Alabama, 1975, relating to the confidentiality of information, records and proceedings so as to allow certain access by the regulatory boards. To amend Section 34-38-7, Code of Alabama, 1975, relating to reporting requirements so as to require certain reports to the regulatory boards.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-38-1, Code of Alabama 1975, is hereby amended to read as follows:

“§34-28-1. Definitions.

For the purposes of this chapter, the following terms shall have the meaning respectively ascribed to them by this section, unless the context clearly provides for another:

(1) DENTIST. Any person who is a dentist or dental practitioner pursuant to the definition of section 6-5-481, as amended.

(2) PHARMACIST. Any person who is a pharmacist as defined in section 34-23-1, as amended, and pharmacy externs and interns registered by the board of pharmacy under Rule 680-X-2-.16 of the Alabama Administrative Code.

(3) BOARDS. Individually and/or jointly; the board of dental examiners and the board of pharmacy.

(4) COMMITTEE. The Alabama impaired professionals' committee (Acts 1988, No. 88-334, §1.)

(5) HYGIENIST. Any person who is a hygienist pursuant to the provisions of sections 34-9-26 and 34-9-27.”

**Section 2.** Section 34-38-2, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§34-38-2. Duty of board of dental examiners and board of pharmacy to promote early treatment, etc., of individuals impaired by illness, inebriation, etc.; Alabama impaired professionals' committee; expenses; competitive bidding not required.

It shall be the duty and obligation of each the state board of dental examiners and the state board of pharmacy to promote the early identification, intervention, treatment and rehabilitation of individuals within the respective jurisdiction, licensed to practice in the State of Alabama, who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. For the purpose of this chapter, the term “impaired” shall mean the inability of a dentist, hygienist or pharmacist to practice with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of physical or mental condition rendering such person unable to meet the standards of his or her profession. In order to carry out this obligation, each board,

individually or jointly, is hereby empowered to contract with any nonprofit corporation, health provider or professional association for the purpose of creating, supporting and maintaining a committee of professionals to be designated the Alabama impaired professionals' committee. The committee shall consist of not less than three nor more than fifteen professionals licensed to practice dentistry or pharmacy in the State of Alabama, and selected in a manner prescribed by the board or boards. The authority of the Alabama impaired professionals' committee shall not supercede the authority of the board or boards to take disciplinary action against individuals subject to this chapter. Nothing in this chapter shall limit the power and authority of the board or boards to discipline an impaired individual subject to its jurisdiction; provided that where an individual is impaired and currently in need of intervention, treatment or rehabilitation and such individual is currently participating in programs or rehabilitation recommended by the committee, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual; and further provided that where the board or boards, upon reasonable cause to believe an individual subject to its jurisdiction is impaired, has referred such individual to the committee for evaluation, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual. The board, or boards, is authorized to expend such funds as are available to it as deemed necessary to adequately provide for the operational expenses of the Alabama impaired professionals' committee, including, but not limited to, the actual cost of travel, office overhead, personnel expense and compensation for the members of the committee and its staff; provided that operational expenses of the Alabama impaired professionals' committee shall not include the cost of treatment or rehabilitation programs recommended by the committee to individuals subject to this chapter."

**Section 3.** Section 34-38-6, Code of Alabama, 1975, is hereby amended as follows:

"§34-38-6. Confidentiality of Information, Records and Proceedings.

All information, interviews, reports, statements, memorandums, or other documents furnished to or produced by the Alabama impaired professionals' committee and any findings, conclusions, recommendations or reports resulting from the investigations, interventions, treatment or rehabilitation, or other related proceedings of such committee are declared to be privileged and confidential. All records and proceedings of such committee shall be confidential and shall be used by such committee, the members thereof and the boards, only in the exercise of the proper functions of the committee and the boards, and shall not be public records nor available for court

subpoena or for discovery proceedings. Nothing contained herein shall apply to records made in the regular course of business of an individual; documents or records otherwise available from original sources and not to be construed as immune from discovery or use in any civil proceedings merely because they were presented or considered during the proceedings of the Alabama impaired professionals' committee.

**Section 4.** Section 34-38-7, Code of Alabama, 1975, as amended, is hereby amended as follows:

“§34-38-7. Annual Report.

It shall be the duty of the Alabama impaired professionals' committee to render an annual report to each board or boards, concerning the operations and proceedings of the committee for the preceding year. In addition, the committee shall promptly report to the respective boards any individual within their jurisdiction who, in the opinion of the committee is unable to practice the standards of his or her profession with reasonable skill and safety to patients, by reason of illness, inebriation, excessive use of drugs, controlled substances, narcotics, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession and appears that such individual is currently in need of intervention treatment or rehabilitation. A report to the Alabama impaired professionals' committee shall be deemed to be a report to the board or boards for the purposes of any mandated reporting of professional impairment otherwise provided for by the statutes of this state.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:38 P.M.

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Act No. 89-861

H. 111—Rep. White (L)

## AN ACT

To provide for the correction of errors made in the assessment, computation, calculation and collection of ad valorem taxes, including penalties or fees due thereon and any mechanical errors found in the tax return, and to further provide for the collection of additional sums due or the refund of overpayments due to such errors.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Whenever an error is found in the assessment, computation, or calculation of the amount of ad valorem taxes, penalties or fees due thereon; or any mechanical error is found in the tax return, listing and valuing of property upon assessments legally made or upon collections based thereon; the official charged with assessing and/or collecting such taxes, penalties or fees is hereby authorized to correct the same in his records; provided, however, he shall file in the record the proper evidence to support his action. In the case of a tax assessor, he shall immediately certify same to the tax collector for collection, or if a refund of taxes is due, the tax collector shall refund said taxes out of the next monies collected. In the case where the same official assesses and collects the taxes, he shall make the corrections herein authorized and collect any additional sums due, or if a refund of taxes is due, he shall make such refund out of the next monies collected. Provided further, that the taxpayer shall furnish proof of such payment to the satisfaction of such official within two (2) years from the date of such payment.

**Section 2.** All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:39 P.M.

Act No. 89-862

H. 445—Reps. Higginbotham, Box,  
Hooper, Holley, McKee,  
Payne, Flowers, Turnham  
and Campbell

### AN ACT

To create the Wallace-Folsom Prepaid College Tuition Trust Fund (the Fund) and a board of trustees (the board) to administer the fund and implement the provisions of this act; to declare legislative intent; to name this act the "Wallace-Folsom Prepaid College Tuition Act"; to provide definitions; to provide for the membership, terms of office, qualifications, reimbursement, meetings, powers, duties and responsibilities of the board of trustees of the trust fund; to grant broad powers necessary to implement this act; to authorize investments by the board; to provide for the location and administration of the trust fund; to authorize prepaid college tuition contracts between the board and individuals for the benefit of qualified beneficiaries in order to receive college or university education; to provide for the terms of such contracts and the rights of parties to such contracts; to provide for payroll deductions for such contracts;

to provide for certain specific requirements of the board; and to make a supplemental appropriation to the state treasurer's office for the purpose of implementing the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislative intent of this act is to establish an educational trust fund through which many of the costs associated with attending a state college or university may be paid in advance for the full term of undergraduate enrollment. In establishing the trust fund, it is the intent of the legislature to encourage timely financial planning for higher education by the creation of prepaid tuition contracts and to encourage employer participation in such planning, and to provide assistance and incentives for the purchase of prepaid tuition contracts for the benefit of the children of the people of this state.

**Section 2.** This act shall be known as the "Wallace-Folsom Prepaid College Tuition Act."

**Section 3.** The following terms shall have the meanings ascribed to them, unless the context clearly indicates otherwise:

(a) **Prepaid Tuition Contract.** A contract entered into by the board of trustees of the trust fund and a purchaser pursuant to this act.

(b) **Trust Fund.** The Wallace-Folsom Prepaid College Tuition Trust Fund created pursuant to Section 6 of this act.

(c) **Purchaser.** A person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract entered into pursuant to this act.

(d) **Qualified Beneficiary.** A resident of this state at the time a purchaser enters into a prepaid tuition contract on behalf of the resident.

(e) **State College, University.** Any state supported public two or four year college or university.

(f) **Tuition.** The quarter, semester or term charges imposed by a state college or university and all mandatory fees required as a condition of enrollment.

(g) **Board.** The Board of Trustees of the Wallace-Folsom Prepaid College Tuition Trust Fund as provided in Section 4 hereof.

(h) **Outside Tuition Fee.** The amount of tuition and/or fees payable to a college or university outside the state or independent institutions upon the election by a beneficiary to attend such institution. This fee shall generally be the amount of the average tuition

costs and/or fees of state institutions of higher learning as determined by the board of Trustees on an annual basis.

**Section 4.** (a) The Board of Trustees of the Wallace-Folsom Prepaid College Tuition Trust Fund shall consist of nine (9) members as follows:

The Executive Director of the Alabama Commission on Higher Education (ACHE), a representative of the Council of College and University Presidents, the Treasurer of the State of Alabama, The Chancellor of the Alabama Department of Postsecondary Education, each of whom shall serve ex officio; one (1) person appointed by the Speaker of the House of Representatives, and one (1) person appointed by the Lieutenant Governor, for initial terms of office of two (2) years each; one person appointed by the Treasurer for an initial term of office of three (3) years; and two (2) persons appointed by the Governor for an initial term of office of four (4) years. Successors to the appointed members shall serve for terms of office of four years and shall be eligible for reappointment, and shall serve until a successor is appointed. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term.

(b) Each trustee appointed shall possess knowledge, skill, and experience in business or financial matters commensurate with the duties and responsibilities of the trust fund; provided, however, that no person holding a full-time office or position of employment with the state, any county or municipality in the state, any educational institution, or any instrumentality, agency or subdivision of the foregoing, shall be eligible for appointment to the board.

(c) Members of the Board of Trustees shall serve without compensation, but shall be reimbursed for each day's official duties of the board at the same per diem and travel rate as is paid the employees of the state.

(d) The State Treasurer shall be the chairman and presiding officer of the board, and the board may appoint such other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the Trust Fund.

**Section 5.** In addition to the powers granted by any other provision of this act, the Board of Trustees shall have the powers necessary or convenient to carry out the purposes and provisions of this act, the purposes and objectives of the trust fund and the powers delegated by any other law or executive order including, but not limited to the following express powers:

(a) To adopt and amend bylaws;

(b) To adopt such rules and regulations as are necessary to implement the provisions of this act without compliance with the state administrative procedures statutes (Sections 41-22-1 through 41-22-27, Code of Alabama 1975, or any similar successor statute);

(c) To invest any funds of the trust fund in any instrument, obligation, security, or property determined appropriate by the board, and to name and use depositories for its investments and holdings;

(d) To execute contracts and other necessary instruments;

(e) To impose reasonable requirements, as determined by each college or university, for residency for qualified beneficiaries;

(f) To impose reasonable limits on the number of contract participants in the trust fund at any given period of time;

(g) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of private persons for administrative and technical assistance in carrying out the responsibilities of the trust fund;

(h) To solicit and accept gifts, including bequeathments or other testamentary gifts made by will, trust or other disposition, grants, loans, and other aids from any personal source or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this act;

(i) To define the terms and conditions under which payments may be withdrawn from the trust fund and impose reasonable charges for such withdrawal;

(j) To impose reasonable time limits on the use of the tuition benefits provided by the program;

(k) To provide for the receipt of contributions to the trust fund in lump sums or installment payments;

(l) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this act; and

(m) To administer excess funds for the benefit of qualified students admitted to or attending state colleges and universities by the provision of scholarships for said students.

As indicated in subsection (b) hereof, the board is hereby expressly exempt from the provisions of Sections 41-22-1 through 41-22-27, Code of Alabama 1975, or any similar subsequently enacted successor statute.

**Section 6.** (a) There is hereby created under the jurisdiction and control of the Board of Trustees the Wallace-Folsom Prepaid



College Tuition Trust Fund (hereinafter referred to as "the trust fund" or "the fund").

(b) The official location of the trust fund shall be the state treasurer's office, and the board shall use the facilities of the State Treasurer in the administration of the fund including but without limitation thereto, the keeping of records, the management of bank accounts and other investments, the transfer of funds, and the safe-keeping of securities evidencing investments.

(c) Payments received by the board from purchasers on behalf of qualified beneficiaries or from any other source, public or private, shall be placed in the trust fund, and the fund may be divided into separate accounts as may be determined by the board.

(d) Assets of the trust fund may be invested in any instrument, obligation, security or property considered appropriate by the board and may be pooled for investment purposes with any other investment of the state which is eligible for asset pooling. All interest and gains accruing to the trust fund shall increase the total funds available for the program. Any unexpended or unobligated funds remaining within the trust fund at the end of any given fiscal year shall remain therein and may be available for scholarships for the benefit of qualified students admitted to or attending state colleges and universities.

(e) The trust fund, through the board of trustees or its officer, employee or agent, is hereby specifically authorized to receive and deposit into the trust fund any gift of any nature, real or personal property, made by any individual by testamentary disposition, including, without limitation, any specific gift or bequeath made by will, trust or other disposition.

(f) The board shall obtain appropriate actuarial assistance to establish, maintain, and certify a fund sufficient to defray the obligation of the trust fund, and shall annually evaluate or cause to be evaluated, the actuarial soundness of the trust fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, it may adjust the terms of subsequent prepaid tuition contracts to ensure such soundness.

(g) The Wallace-Folsom Prepaid Tuition Trust Fund Board is hereby created as a body corporate with all the powers of a body corporate for the purposes delineated in this act and shall independently exercise the powers and duties authorized therein. The Wallace-Folsom Prepaid Tuition Trust Fund shall be administered by the board as an agency of the state and its property and income shall be exempt from all taxation by this state and all of its political subdivisions.

(h) If there are insufficient numbers of purchasers to meet the obligations of the trust fund, the available assets of the trust fund

attributable to the plan shall be immediately prorated among the then-existing contracts.

**Section 7.** (a) The board, or its authorized officer, agent or employee, is hereby authorized to contract with a purchaser for the lump sum or installment prepayment of tuition costs by the purchaser for a qualified beneficiary to attend any state college or university to which the qualified beneficiary is admitted, without further tuition costs or mandatory fees.

(b) The prepaid tuition contract shall include, but shall not be limited to, the following terms:

(1) The amount of the payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;

(2) The terms and conditions under which purchasers shall remit payments, including, but not limited to, the date or dates upon which each payment shall be due;

(3) Provisions for late payment charges and for default;

(4) Provisions for withdrawal from the plan, including refunds and any penalty therefor;

(5) The name and date of birth of the qualified beneficiary on whose behalf the contract is drawn;

(6) Terms and conditions under which another person may be subsequently substituted for the qualified beneficiary originally named;

(7) The name of the person entitled to terminate the contract, and the terms and conditions under which a contract may be terminated, and the name of the person entitled to any refund due as a result of termination of the contract;

(8) The period of time during which the qualified beneficiary must claim benefits through the program;

(9) The number of credit hours contracted by the purchaser necessary for the granting of a four-year completed baccalaureate degree;

(10) All other rights and obligations of the purchaser and the trust; and

(11) Such other terms, conditions and provisions as the board considers in its sole discretion to be necessary or appropriate.

(c) In the event a qualified beneficiary elects not to attend a state college or university, and is accepted by any other institution of higher learning, the board may, in its discretion, upon receipt of

evidence of admission to said outside institution of higher learning, remit on a quarterly, semester, or term basis as appropriate, an outside tuition fee amount pursuant to the terms of the contract.

(d) A prepaid tuition contract shall also specifically provide that, if after a specified period of time, the contract has not been terminated nor the qualified beneficiary's rights under the contract exercised, the board, after making reasonable effort to locate the purchaser and qualified beneficiary or the agent of either, shall retain the amounts otherwise payable and the rights of the qualified beneficiary, the purchaser or the agent of either shall be considered terminated.

(e) Nothing in this act nor in a prepaid tuition contract entered into pursuant to this act, shall be construed as a promise or guarantee by the board or the state that: a person shall be admitted to a state college or university or to a particular college or university; or that a person shall be allowed to continue to attend a state college or university after having been admitted; or that a person shall be graduated from a state college or university.

(f) The state or any state agency, or any county, or municipality, or any other employer in the state is hereby authorized, by contract, or otherwise, to agree with any employee to remit payments toward prepaid tuition contracts through payroll deduction made by the appropriate official of the state, state agency, political subdivision, or other employer under the terms of an accepted prepaid tuition contract.

**Section 8.** In addition to any other requirements of this act, the board of trustees shall:

(a) Make available summary information on the financial condition of the trust fund to all purchasers of prepaid tuition contracts;

(b) Prepare, or cause to be prepared, an annual accounting of the trust fund and transmit a copy of same to the Governor, the Lieutenant Governor and the Speaker of the House of Representatives; and

(c) Make all necessary and appropriate arrangements with state colleges and universities in order to fulfill its obligations under the prepaid tuition contracts, which arrangements shall include the payment by the trust fund of current applicable tuition and fee charges on behalf of a qualified beneficiary to the college or university.

**Section 9.** Upon the passage of this act and upon the passage of H.B. 446 of the 1989 Regular Session, \$500,000 is hereby appropriated from the state general fund to the state treasurer's office for the fiscal year ending September 30, 1990, for the implementation of the Wallace-Folsom Prepaid College Tuition Trust Fund Act. Such

appropriation shall be supplemental to any and all other appropriations heretofore or hereafter made to the state treasurer's office.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:40 P.M.

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Act No. 89-863

H. 569—Rep. Fuller

## AN ACT

To amend Section 32-8-87 of the Uniform Certificate of Title and Antitheft Act so as to change the standard for total loss of a motor vehicle to seventy-five percent or more of the cost of the vehicle; to clarify the status of vehicles which have received minor damage as a result of theft or vandalism; to require bills of sale for minor component parts; to require that an owner of a salvage motor vehicle provide evidence that he is a licensed Motor Vehicle Rebuilder in an application for inspection; to delete transmission or trans-axle as a major component part; to add transmission or trans-axle as a minor component part; to require that a salvage vehicle which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to issue shall be issued a certificate of title without 'rebuilt' appearing thereon if no more than one major component part and five minor component parts were used to restore the vehicle.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-8-87, Code of Alabama 1975, is hereby amended to read as follows:

“32-8-87.

“(a) Each owner of a motor vehicle and each person mentioned as owner in the last certificate of title who scraps, dismantles, destroys or changes the motor vehicle in such a manner that it is not the same motor vehicle described in the certificate of origin or certificate of title, shall as soon as practicable cause the certificate of origin or certificate of title, if any, and any other documents or information required by the department to be mailed or delivered to the department for processing. The department shall, with the consent of any holder of liens noted on the surrendered certificate, enter a

cancellation upon its records. Upon cancellation of a certificate of origin or certificate of title in the manner prescribed by this section, the department shall cancel all certificates of origin or certificates of title and all memorandum certificates in that chain of title. A certificate of title for the vehicle shall not again be issued except upon application containing the information the department requires, accompanied by a certificate of inspection in the form and content as specified in this section.

"No motor vehicle for which a salvage or junk certificate has been issued by this state or any other state shall be driven or operated on the highways or other public places of this state. However, a vehicle which is in this state and for which a salvage certificate has been issued, and the vehicle is being restored to its operating condition which existed prior to the event which caused the salvage certificate of title to issue, may be moved to and from repair points as necessary by the rebuilder to complete the restoration or may be moved as permitted by the department of revenue for inspection or for any other purpose. A valid Alabama dealer transport (DT) license plate must be displayed on the vehicle during its movement. Any person who violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.

"(b) When the frame or engine is removed from a motor vehicle and not immediately replaced by another frame or engine, or when an insurance company has paid money or made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be salvage. The owner of every motor vehicle in which total loss or salvage has occurred shall, within 72 hours after such total loss or salvage occurs, make application for a salvage certificate of title and forward to the department the certificate of origin or certificate of title to the motor vehicle, whereupon the department shall process the certificate of origin or certificate of title in a manner prescribed by law or regulation. An insurance company which pays money or makes other monetary settlement as compensation for total loss of a motor vehicle shall at the time of payment or monetary settlement obtain such vehicle's certificate of origin or certificate of title and, as soon as practicable after receiving them, shall forward them along with their application for a salvage certificate, to the department for processing. In the event the payment or monetary settlement was made because of the theft of the vehicle, which shall be considered a total loss as defined in this section, the insurance company shall forward the vehicle's properly assigned certificate of origin or certificate of title as provided herein, to the department as soon as practicable after the vehicle is recovered. When a stolen motor vehicle has been reported to the department in compliance with this section and is later recovered, and for which a salvage certificate has been issued, the owner recorded

on the salvage certificate shall assign that certificate to the purchaser. Any person who violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.

“(c) If an insurance company acquires a motor vehicle in settlement of an insurance claim and holds the vehicle for resale and procures the certificate of origin or certificate of title from the owner or lienholder within 15 days after delivery of the vehicle to the insurance company, and if the vehicle was not a total loss as defined by this section, the insurance company need not send the certificate of origin or certificate of title to the department but, upon transferring the vehicle to another person, other than by the creation of a security interest, the insurance company shall complete an affidavit of acquisition and disposition of the motor vehicle on a form prescribed by the department and deliver the certificate of origin or certificate of title, affidavit and any other documents required by the department to the transferee at the time of delivery of the motor vehicle.

“(d) For the purposes of this section, a total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to any person when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined in this subsection shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the motor vehicle. A vehicle that has sustained minor damage as a result of theft or vandalism shall not be considered a total loss.

“(e) It shall be unlawful for the owner of any junkyard, salvage yard, or motor vehicle dismantler and parts recycler or his agents or employees to have in their possession any motor vehicle which is junk or salvage or a total loss when the manufacturer's vehicle identification number plate(s), authorized replacement vehicle identification number plate(s), or serial plate(s) have been removed, unless previously required to be removed by a statute or law of this state or another jurisdiction. Any person who violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.

“(f) It shall be unlawful for any person, firm or corporation to possess, sell or exchange, offer to sell or exchange, or to give away any certificate of origin, certificate of title, salvage certificate of title, manufacturer's identification number plate(s), authorized replacement vehicle identification number plate(s), serial plate(s), or motor vehicle license plate(s) of any motor vehicle which has been scrapped, dismantled or sold as junk or salvage or as a total loss contrary to the provisions of this section, and every officer, agent or employee of any person, firm or corporation, and every person who shall authorize,

direct, aid in or consent to the possession, sale or exchange or offer to sell, exchange or give away such certificate of origin, certificate of title, salvage certificate of title, manufacturer's vehicle identification number plate(s), authorized replacement vehicle identification number plate(s), serial plate(s), or motor vehicle license plate(s) contrary to the provisions of this section, shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.

“(g) The department is authorized to issue a salvage certificate of title for a fee of \$15.00, on a form prescribed by the department which shall provide for assignments of this title. Such salvage certificate of title is to replace a certificate of origin or certificate of title required to be surrendered by this section. The department shall prescribe necessary forms and procedures to comply with the provisions of this subsection.

“(h) It shall be unlawful for any person to sign as assignor or for any person to have in his possession a salvage certificate of title which has been signed by the owner as assignor without the name of the assignee and other information called for on the form prescribed by the department. Any person who violates this subsection, upon conviction, shall be guilty of a Class C misdemeanor and shall be punishable as required by law.

“(i) Every owner of a salvage or junk motor vehicle who sells or transfers said vehicle shall provide at the time of such sale or transfer a properly executed assignment and warranty of title to the transferee in the space provided therefor on the salvage certificate of title or junk certificate of title or as the department prescribes. Any person who willfully violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.

“(j) The department may issue a certificate of title to any motor vehicle for which a salvage certificate has been issued by this or any other state, and such vehicle has, in this state, been completely restored to its operating condition which existed prior to the event which caused the salvage certificate of title to issue, provided that all requirements of this section have been met. However, no certificate of title shall be issued for any motor vehicle for which a ‘junk’ certificate has been issued or for a vehicle which is sold ‘for parts only.’

“(k) Every owner of a salvage motor vehicle designated a 1975 year model and all models subsequent thereto which is in this state and which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to issue shall make application to the department for an inspection of the vehicle in the form and content as determined by

the department. Each application for inspection of a salvage vehicle which has been so restored shall be accompanied by the following:

“(1) The outstanding salvage certificate or out-of-state title previously issued for the salvage vehicle.

“(2) Notarized bills of sale evidencing acquisition of all major component parts (listing the manufacturer's vehicle identification number of the vehicle from which the parts were removed, if parts contain or should contain the manufacturer's vehicle identification number) used to restore the vehicle and bills of sale evidencing acquisition of all minor component parts. Notarization shall not be required on bills of sale for minor component parts; provided, however, that a notarized bill of sale which lists the manufacturer's vehicle identification number of the vehicle from which the parts were removed, if parts contain or should contain the manufacturer's vehicle identification number shall be required for a transmission.

“(3) Evidence that the owner is a licensed Motor Vehicle Rebuilder as defined in Section 40-12-390.

“(4) The owner shall also provide a written affirmation which states the following:

“a. He rebuilt the vehicle or supervised its rebuilders, and what has been done to restore the vehicle to its operating condition which existed prior to the event which caused the salvage certificate to issue.

“b. He personally inspected the completed vehicle and it complies with all safety requirements set forth by the state of Alabama and any regulations promulgated thereunder.

“c. The identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced.

“d. The salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified, altered or counterfeited.

“e. All information contained on the application and its attachments is true and correct to the knowledge of the owner.

“(1) The application fee for each inspection of a restored vehicle shall be \$75.00, payable by certified funds to the department, which must accompany the application.

“(1) All such application fees received by the department shall be applied toward the personnel and maintenance costs of the vehicle inspection program and such vehicle inspection program shall be



conducted by the Alabama department of revenue, office of investigations and inspections. Upon receipt of the application for inspection, application fee of \$75.00, its supporting documents and title fee of \$15.00 (payable by certified funds to the department), the department shall require an inspection to be made of the title and the vehicle by qualified agents or law enforcement officers of the Alabama department of revenue.

“(2) The inspection and certification shall include an examination of the vehicle and its parts to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced, destroyed, or tampered with, that the vehicle information contained in the application for certificate of title and supporting documents is true and correct and that there are no indications that the vehicle or any of its parts are stolen. Such certification shall not attest to the roadworthiness or safety condition of the vehicle.

“(m) Component parts are defined as:

“(1) Passenger vehicles.

“a. Major components:

“1. Motor or engine.

“2. Trunk floor pan or rear section and roof.

“3. Frame or any portion thereof (except frame horn), or, in the case of a unitized body, the supporting structure which serves as the frame, except when it is a part of the trunk floor pan, or rear section and roof.

“4. Cowl, firewall, or any portion thereof.

“5. Roof assembly.

“b. Minor Components:

“1. Each door allowing entrance to or egress from the passenger compartment.

“2. Hood.

“3. Each front fender or each rear fender when used with a rear section and roof.

“4. Deck lid, tailgate or hatchback (whichever is present).

“5. Each quarter panel.

“6. Each bumper.

“7. T-tops, moon roof, or whichever is present.

"8. Transmission or trans-axle.

"(2) Truck, trucktype or bus type vehicles.

"a. Major components:

"1. Motor or engine.

"2. Transmission or trans-axle.

"3. Frame or any portion thereof (except frame horn), or, in the case of a unitized body, the supporting structure which serves as the frame.

"4. Cab.

"5. Cowl or firewall or any portion thereof.

6. Roof assembly.

7. Cargo compartment floor panel or passenger compartment floor pan.

"b. Minor Components:

"1. Each door.

"2. Hood.

"3. Grill, except on one ton or smaller trucks.

"4. Each bumper.

"5. Each front fender.

"6. Roof panel and rear cab panel.

"7. Each rear fender or side panel.

8. Pickup box.

9. Body or bed.

"(3) Motorcycle:—Component parts.

"a. Engine or motor.

"b. Transmission or trans-axle.

"c. Frame.

"d. Front fork.

"e. Crankcase.

"(n) A salvage vehicle which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to issue shall be issued a certificate of title which shall contain the word 'rebuilt.' However a passenger

vehicle, truck-type or bus-type vehicle restored with a combination of no more than one major component parts, as defined above, and no more than five minor component parts, as defined above; or a combination of no more than six minor component parts, as defined above, shall be issued a certificate of title without 'rebuilt' appearing thereon. A motorcycle restored with less than two component parts, as defined above, shall be issued a certificate of title without 'rebuilt' appearing thereon."

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective July 1, 1989.

Approved May 17, 1989

Time: 3:42 P.M.

Act No. 89-864

H. 787—Reps. Venable and Hammett

# AN ACT

To amend Section 30-3-4, Code of Alabama 1975, which provides for visitation rights of grandparents in domestic relations cases, and in other cases, so as to provide further for such rights.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 30-3-4, Code of Alabama 1975, is hereby amended to read as follows:

"§30-3-4.

"At the discretion of the court, visitation rights for grandparents of minor grandchildren shall be granted in the following cases:

"(a) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have not been previously established by the Court, and to file a motion for contempt when such rights have been denied to them when one of the following situations occur;

"(b) One parent of the child is deceased and the surviving parent denies reasonable visitation rights; or

“(c) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:41 P.M.

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Act No. 89-865

H. 37—Rep. Newman

### AN ACT

To amend Section 32-5-243, Code of Alabama 1975, relating to the lighting equipment and warning devices for vehicles engaged in the U.S. mail service so as to provide further for said lighting devices.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-5-243 of the Code of Alabama 1975, is hereby amended to read as follows:

“§32-5-243.

“Any vehicle in active service transporting United States mail may display two simultaneously flashing lights to be used for the purpose of warning other vehicle operators of its presence and to exercise caution in approaching, overtaking or in passing. Such lights may be flashed continuously or actuated by application of the service brake (foot) while the vehicle is either in motion or parked. Such lamps shall have the following specifications and shall meet the following requirements:

“(1) Lamps shall be not less than four inches in diameter and shall be powered by a bulb of not less than 21 candlepower with a reflectorization sufficient to assure visibility for at least 500 feet in front and to the rear of the vehicle under normal atmospheric conditions.

“(2) Lamps shall be of double face or two way type.

“(3) Lamps shall have amber lens to the front and red lens to the rear.

“(4) Lamps shall be mounted on the highest part of the top of the vehicle in such a position that illumination from the lights is visible both to the front and rear for the required distance. Lamps shall be spaced laterally as far apart as body construction will permit

but not closer than 30 inches. Between the lamps there shall be mounted a 22-inch by seven-inch sign with the wording 'U.S. MAIL' in minimum of four-inch letters and of not less than three quarters of an inch in width of strobe, in black on a white background.

"(5) This sign and lamps shall be so installed that the sign can be easily lowered and the lamps turned off when the vehicle is not actually engaged in the United States mail service.

"(6) Any vehicle in active service transporting United States mail may, as an option to the foregoing, display a flashing red light not less than four inches in diameter with the letters 'STOP' printed thereon and a uniform sign not less than 14 inches in diameter approved by the department of public safety with the words printed thereon 'U.S. MAIL, WATCH FOR STOPS,' which sign and light is to be attached to the rear of such vehicle.

"(7) In addition to the above lighting equipment the department of public safety is hereby granted the authority to prescribe rules and regulations for the use of amber colored strobe lights or any other lighting device on mail delivery vehicles. In prescribing said rules and regulations the department of public safety shall seek the advice of the U.S. postal service."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:00 P.M.

Act No. 89-866

H. 142—Reps. Harper, Turnham,  
Johnson (RG), Williams  
and Rogers

### AN ACT

To create the Dietetics/Nutrition Practice Act and to provide for a board of examiners, and to prescribe the method of appointment; its duties and authorities; to provide an appropriation for fiscal years 1988-89 and 1989-90; and to provide for licensing qualifications, renewals and revocation, exemptions, reciprocity, and penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known as the "Dietetics/Nutrition Practice Act."

**Section 2.** It is the purpose of this act to protect the health, safety and welfare of the public by providing for the licensing and regulation of persons engaged in the practice of dietetics and nutrition.

The provisions of this act shall not apply to hospitals doing business in Alabama as defined by Section 22-21-20(1), Code of Alabama 1975, as amended, for a period of five years only, such exemption beginning on the date of this act becoming law.

**Section 3.** For the purposes of this act, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

(1) "Board" means Board of Examiners for Dietetics/Nutrition Practice.

(2) "Commission on Dietetic Registration" (CDR) means Commission on Dietetic Registration that is a member of the National Commission for Health Certifying Agencies.

(3) "Degree" means a baccalaureate or higher degree from a college or university accredited by the Southern Association of Schools and Colleges or other regional accreditation agency recognized by the Council on Postsecondary Accreditation and the United States Department of Education.

(4) "Registered Dietitian" means a person registered by the Commission on Dietetic Registration (also defined under section 34-34-1, Code of Alabama 1975).

(5) "Licensed Dietitian/Nutritionist" means a person licensed under this act.

(6) "Temporarily Licensed Dietitian/Nutritionist" means a person temporarily licensed under this act.

(7) "Dietetics/Nutrition Practice" means the integration and application of the principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain people's health through the provisions of nutrition care services.

(8) "Nutrition Care Services" means:

a. Assessing the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting;

b. Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

c. Providing nutrition counseling in health and disease according to established guidelines of care;

d. Developing, implementing and managing nutrition care systems; and

e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(9) "Nutritional Assessment" means the evaluation of the nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition.

(10) "Nutrition Counseling" means advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status.

(11) "Dietitian/Nutritionist" means one engaged in dietetics/nutrition practice as defined in Chapter 34 of Title 34 of the Code of Alabama 1975.

(12) "Dietetic Technician" means a person who is trained to perform specific dietetic functions of a licensed dietitian/nutritionist as defined by this act under the direct supervision of a licensed dietitian/nutritionist.

**Section 4.** Dietetics/nutrition is the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food, management, and behavioral and social sciences to achieve and maintain people's health. The primary function of dietetic practice is the provision of nutrition care services which shall include:

(1) Assessing the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting.

(2) Establishing priorities, goals and objectives that meet nutritional needs and are consistent with available resources and constraints.

(3) Providing nutrition counseling in health and disease.

(4) Developing, implementing and managing nutrition care systems.

(5) Evaluating, making changes in and maintaining appropriate standards of quality in food and nutrition services.

**Section 5.** Only a person licensed or otherwise authorized to practice under this act shall practice dietetics/nutrition or provide nutrition care services or use the title "dietitian/nutritionist" or the words "dietitian" or "nutritionist" alone or in combination, or use the letters L.D., L.N., or any facsimile thereof, except as allowed by Chapter 34, Title 34, Code of Alabama 1975. Nothing in this act shall apply to a physician licensed to practice medicine. Dietitians/

nutritionists may offer advice and counsel on dietetics and nutrition as adjunct medical therapy when advice and counsel is given upon referral or directive of a licensed physician. Notwithstanding any other provision of this act to the contrary a person licensed to practice dietetics/nutrition or to provide nutritional care services shall not diagnose, treat, or prescribe for any human illness, injury, disease, impairment or infirmity, or otherwise engage in the practice of medicine as that term is defined in Section 34-24-50, Code of Alabama 1975.

**Section 6.** (a) The State Board of Examiners for Dietetics/Nutrition Practice is hereby created.

(b) The board shall consist of three members. Two members of the board shall be dietitians/nutritionists licensed under this act. One member of the board shall be a lay person. The Governor shall appoint board members. At least two names shall be submitted for each place on the board. No elected officer of the Alabama Dietetic Association, Inc., shall be eligible to serve on the board.

(c) Each dietitian/nutritionist on the board shall have been engaged in the practice of dietetics/nutrition for not less than seven years, with at least the last two years in the state of Alabama. The dietitians/nutritionists on the board shall be in different areas of practice, namely: clinical dietetics and research, community dietetics, management, consultation and private practice, and education.

(d) The lay member of the board shall not be a spouse or relative of any other member of the board.

(e) Each member of the board shall serve for a term of three years and may succeed himself for one additional term; provided, however, that where a member was initially appointed either to create the board, or to fill a vacancy, such member may succeed himself for only one additional full term. Any person appointed to fill a vacancy on the board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment and the member shall no longer be eligible to participate in board proceedings unless lawfully appointed. Members of the initial board shall be appointed in such a manner that one member shall serve a two-year term, one board member shall be appointed for a three-year term, and one board member shall be appointed for a four-year term.

(f) The dietitian/nutritionist members of the board shall become licensed during the first year of operation of the board. Thereafter, dietitian/nutritionist board members shall be licensed under this act.

(g) The board shall meet no less than twice a year.



(h) The duties of the board shall include:

(1) Promulgate rules and regulations necessary to implement the act.

(2) Adopt a code of ethics.

(3) Determine qualifications and fitness of applicants, issue licenses, reinstate licenses.

(4) Revoke, suspend or deny a license.

(5) Receive and process complaints.

(6) Provide for examination or waiver of examination for applicants as specified by Commission on Dietetic Registration.

(7) Impose penalties.

(i) Each member of the board shall receive a per diem fee of not less than \$25.00 and not more than \$100.00 to be determined by the board for the time spent in the performance of his official duties and in necessary travel and shall be reimbursed for all travel and incidental expenses as provided by the laws of the state of Alabama and by regulations of the state personnel director incurred in carrying out provisions of this act. In setting the per diem fee, the board shall give due consideration to funds which are available for such purposes.

**Section 7.** To qualify as a licensed dietitian or nutritionist, an applicant must:

(1) Be 19 years of age or older.

(2) Submit evidence of good moral character and respectability.

(3) File a written application on a form provided by the board.

(4) Have satisfactorily completed appropriate academic requirements with a major course of study in human nutrition, foods and nutrition, dietetics, or food systems management, and have received a baccalaureate or higher degree from a college or university accredited by the Southern Association of Schools and Colleges or other regional accreditation agency. An applicant who has received his/her education outside the United States or its territories must have the academic degree(s) validated as equivalent to the baccalaureate or master's degree conferred by a college or university in the United States that is accredited by the Southern Association of Schools and Colleges or other regional accreditation agency.

(5) Or in lieu of subdivision (4) of this Section 7, have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition as defined by the Board, or a related field

from a college or university accredited by the Southern Association of Schools and Colleges or other regional accrediting agency.

(6) Have satisfactorily completed a planned, continuous pre-professional experience component in dietetics/nutrition practices of not less than 900 hours under the supervision of a registered dietitian or a practitioner licensed under the conditions of this act.

(7) Pass an examination propounded under the auspices of the Commission on Dietetic Registration.

(8) Applicants who provide evidence of current registration as a Registered Dietitian by the Commission on Dietetic Registration shall be considered to have met the requirements of subdivisions (4) or (5), and (6) and (7) of this section.

(9) Pay fees prescribed by the board.

**Section 8.** There is hereby established a separate special revenue trust fund in the state treasury to be known as the Alabama State Board of Examiners for Dietetics/Nutrition Practice Fund. All receipts collected by the board under the provisions of this act are to be deposited in this fund and used only to carry out the provisions of this act. Such receipts shall be disbursed only by warrant of the state comptroller upon the state treasurer, upon itemized vouchers approved by the chairman of the board; provided that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and 41-19-1 through 41-19-12 of the Code of Alabama 1975 and only in amounts as stipulated in the general appropriations bill or other appropriation bills.

**Section 9.** (a) A temporary license to practice as a dietitian/nutritionist may be issued by the board upon the filing of an application and submission of evidence of successful completion of education requirements specified in Section 7.

(b) A temporary license shall expire one year from the date of issuance.

(c) The fee for a temporary license and for each renewal shall not be more than 50 percent of current renewal fees. Application fees must be paid same as licensed dietitians/nutritionists.

**Section 10.** This act does not prevent or restrict the practice, services or activities of:

(1) A dietetic technician, from engaging in the practice of dietetics/nutrition under the supervision of a licensed dietitian/nutritionist provided such activities are related to employment.

(2) A student enrolled in an approved educational program in dietetics/nutrition from engaging in the practice of dietetics/nutrition

under the supervision of a licensed dietitian/nutritionist provided the activities are part of such program.

(3) A dietitian/nutritionist who is serving in the armed forces or the public health services of the United States or is employed by the Veterans Administration or other federal government agencies or the Cooperative Extension System from engaging in the practice of dietetics/nutrition provided such practice is related to such service or employment.

(4) A duly licensed health professional from engaging in the practice of dietetics/nutrition when incidental to the practice of his/her profession, provided that such a person does not represent himself/herself as a licensed dietitian/nutritionist or as able to practice dietetics/nutrition.

(5) A government employee other than a dietitian/nutritionist, or a certified teacher employed by a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education, from discharging his/her official duties, provided that if such person practices dietetics/nutrition in this state outside the scope of that official duty, he/she shall be licensed under this act.

(6) Any person, including hospital food service managers/directors and child nutrition program managers, who has management responsibility for food service department policies, procedures and outcomes from performing his/her job provided that such a person does not represent himself/herself as a licensed dietitian/nutritionist.

(7) Nothing in this act is intended to prohibit any person who does not hold himself out to be a dietitian or nutritionist from furnishing general nutritional information on food, food materials, or dietary supplements or from engaging in the explanation to customers about foods or food products in connection with marketing and distribution of those products, nor to prohibit any person licensed under this act from engaging in the marketing and distribution of food or food products.

(8) Any person who provides weight control services provided the program has been reviewed by a dietitian/nutritionist as defined in this act and consultation is available from a dietitian/nutritionist. No changes in a weight control program shall be initiated without prior approval by a dietitian/nutritionist as defined in this act.

(9) A dietitian/nutritionist licensed under this act from providing nutrition counseling on health and wellness to the public as an independent agent.

**Section 11.** Reciprocity shall be provided for licensed dietitians/nutritionists from other states provided that the standards for

licensing in that state are not less than those provided for in this act as determined by the board.

**Section 12.** For one year beginning on the effective date of this act, the board shall waive the examination requirement and grant a license to any person who:

(1) Is registered with the Commission on Dietetic Registration, or

(2) has received a baccalaureate or post baccalaureate degree with a major in dietetics/nutrition or equivalent major course of study as approved by the Board, from a college or university accredited by the Southern Association of Schools and Colleges or equal accrediting agency and who:

(a) Shall have completed the accredited or approved experience as acceptable to the Commission on Dietetic Registration, or

(b) Meets the requirements of Section 34-34-4 of the Code of Alabama 1975.

**Section 13.** (a) Any license issued under this act expires two years after it is issued unless renewed in the manner prescribed by the board.

(b) An applicant for renewal of a license must have satisfactorily maintained continuing education requirements through the Commission on Dietetic Registration or as specified and approved by the board.

(c) The board may provide for the late renewal of a license upon payment of a late fee but no late renewal of a license may be granted more than one year after its expiration.

**Section 14.** (a) The board may deny a license, refuse to renew a license, suspend a license or revoke a license, or it may reprimand, censure or otherwise discipline a person practicing dietetics/nutrition or offering to practice dietetics/nutrition in accordance with the provisions of this section upon decision and after due hearing in any one of the following cases:

(1) Upon proof that such person has willfully or repeatedly violated any of the provisions of this act or the rules enacted in accordance therewith; or willfully or repeatedly acted in a manner inconsistent with the health, welfare and safety of the public,

(2) Upon proof that such person's conduct is immoral, unprofessional or dishonorable,

(3) Upon proof that such person is guilty of fraud or deceit in the practice of dietetics/nutrition or in his/her admission to such practice, or

(4) Upon proof that such person has been convicted in a court of competent jurisdiction, either within or without the state, of a crime involving moral turpitude.

(b) The board shall have the jurisdiction to hear all charges brought under the provisions of this section against any person having been issued a license as a dietitian/nutritionist or having been issued a temporary license for the practice of dietetics/nutrition; and upon such hearings shall determine the charges upon their merits. If the board determines that disciplinary measures should be taken, the board may revoke his/her license, suspend him/her from practice, or reprimand, censure or otherwise discipline such person.

(c) All proceedings under this section shall be heard by the board with at least two-thirds of its members present, and decisions to discipline any licensee shall require a vote of two-thirds of the membership of the entire board; provided that the board may designate two or more of its members to comprise a hearing committee for the purpose of determining whether charges brought justify a hearing by the board, and with authority to dismiss frivolous or unfounded charges.

(d) At any hearing under this act, the person charged shall have the right to appear either personally or by counsel or both to produce witnesses and evidence in his own behalf and to cross-examine witnesses. The board or hearing committee shall have the authority to issue subpoenas, compel the attendance of witnesses, administer oaths and take testimony concerning all matters within the jurisdiction of the board. The circuit court of the county wherein said hearing is to take place shall have authority, on application of the board, to enforce obedience to said subpoenas and orders of the board concerning such testimony.

(e) An application for reinstatement may be made to the board one year from the date of revocation of a license. The board may at its discretion accept or reject an application to consider such reinstatement.

**Section 15.** (a) It shall be a misdemeanor for any person to:

(1) Sell or fraudulently obtain or furnish any license or aid or abet therein.

(2) Practice dietetics/nutrition or use the title dietitian/nutritionist under cover of any license illegally or fraudulently obtained or unlawfully issued.

(3) Practice dietetics/nutrition or use the title dietitian/nutritionists or use in connection with his/her name any designation tending to imply that he/she is a dietitian/nutritionist unless duly licensed so to practice under the provisions of this act.

(4) Practice dietetics/nutrition or use the title dietitian/nutritionist or use in connection with his/her name any designation tending to imply that he/she is a dietitian/nutritionist during the time his/her license issued under provisions of this act shall be expired, suspended or revoked.

(5) Otherwise violate any provisions of this act.

(b) Such misdemeanor shall be punishable by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than 30 days or by both such fine and imprisonment.

**Section 15.** There is hereby appropriated from the Alabama State Board of Dietetics/Nutrition Practice Fund to the Alabama Board State Board of Dietetics/Nutrition Practice, for the fiscal year ending September 30, 1989, the sum of \$30,000. The appropriation herein shall be in addition to any and all other funds heretofore or hereinafter appropriated to the Alabama State Board of Dietetics/Nutrition Practice.

**Section 16.** There is hereby appropriated from the Alabama State Board of Dietetics/Nutrition Practice Fund to the Alabama Board State Board of Dietetics/Nutrition Practice, for the fiscal year ending September 30, 1990, the sum of \$60,000. The appropriation herein shall be in addition to any and all other funds heretofore or hereinafter appropriated to the Alabama State Board of Dietetics/Nutrition Practice.

**Section 17.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 18.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 19.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:04 P.M.

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Act No. 89-867

H. 156—Reps. Turnham and Laird

## AN ACT

Providing for elected superintendents of education to participate in the teachers' retirement system upon ratification of an amendment to the Constitution of Alabama 1901 allowing such elected superintendents to participate in such retirement system.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any person now serving as an elected superintendent of education in this state may become a member of the teachers' retirement system of Alabama within 90 days after the ratification of an amendment to the Constitution of Alabama 1901 allowing elected superintendents of education to participate in the teachers' retirement system, subject to such rules and regulations as may be promulgated by the board of control of said system. Any person hereafter elected to serve as superintendent of education shall be deemed to be a "teacher" as defined in Section 16-25-1 of the Code of Alabama 1975 and shall be entitled to the benefits thereof. The employer cost for coverage of such elected superintendents shall be paid as for other school employees. Provided further, that such elected superintendents shall be entitled to purchase prior service credit as a teacher or superintendent in such system under such rules, regulations and provisions of law that govern the purchase of such prior service credit, from time to time, by teachers.

**Section 2.** The provisions of Section 1 of this act shall become effective only upon the ratification of an amendment to the Constitution of Alabama 1901 allowing elected superintendents of education to participate in the teachers' retirement system. If such constitutional amendment is rejected by the qualified electors of this state, then, the provisions of this act shall be null and void and shall have no further effect.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:06 P.M.

Act No. 89-868

H. 446—Reps. Box and Higginbotham

AN ACT

To further amend Section 41-14-33, Code of Alabama 1975, as amended, relating to time deposits, open accounts and annual rate of interest thereon, so as to further provide therefor and for 91 day and 26 week maturities and certain one year maturities.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-14-33, Code of Alabama 1975, as amended, is hereby further amended to read as follows:

“§41-14-33.

“(a) The state treasurer is authorized to enter into contracts with the state depositories for the deposit of state funds in time deposits, open account, having maturities of 91 days, six months or one year; provided that any such contract for a time deposit, open account, having a maturity of 91 days shall provide for early withdrawal of funds upon written notice delivered at least 14 days (or the minimum period of time as is prescribed by applicable banking regulation then in effect) prior to the date of withdrawal.

“(b) the rate of interest to be paid on each time deposit, open account, of 91 days, six months and one year maturity shall correspond to the rate borne by United States treasury obligations of comparable maturity and shall be calculated as the average auction rate for United States treasury bills with maturities of 91 days and 26 weeks, respectively, as established at the four most recent auctions held immediately prior to the execution of the contract for such time deposit, open account, or where the maturity of the time deposit, open account, is one year, as established at the most recent auction for United States treasury bills with maturities of one year held immediately prior to the execution of the contract.

“(c) The interest shall be payable in accordance with Section 41-14-34, Code of Alabama 1975, as amended.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:11 P.M.

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Act No. 89-869

H. 771—Rep. Hall

### AN ACT

Relating to Madison County and emergency telephone service charges so as to further provide for the rate process in the county on such service; providing for additional information on emergency telephone service charges.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Madison County commission shall enforce the provisions of Sections 11-98-1 through 11-98-7, Code of Alabama



1975, as amended, relating to emergency telephone service and the procedures for rate setting or increases.

**Section 2.** The Madison County commission shall require the board of commissioners of the district to give details of the net dollars and cents increase per month per subscriber and for each service. No increase shall be valid in Madison County or in any municipality without such information. Any expenditure in providing such information made by the board of commissioners in an amount in excess of \$1,000.00, must be approved by the county commission.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 3:15 P.M.

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Act No. 89-870

H. 1007—Rep. Hill

## AN ACT

To amend Section 41-9-73, Code of Alabama 1975, as amended, so as to increase the annual appropriations to the Board of Adjustment for payment of claims and death benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-9-73 of the Code of Alabama 1975, as amended, is hereby amended further to read as follows:

“§41-9-73. There is hereby appropriated annually out of the general fund of the state of Alabama, the state insurance fund, the fund of the department of corrections, the special educational trust fund, the special mental health fund or any other fund of the state, to be determined by the board of adjustment, an amount, not exceeding \$1,000,000.00 for each fiscal year, as may be necessary to pay the claims ordered paid by the board of adjustment and its expenses. There is also hereby appropriated, for each fiscal year, an additional amount, not exceeding \$175,000.00 from funds of the state highway department to pay the claims chargeable against the highway

department which are ordered paid by the board of adjustment and its expenses. There is also appropriated, in addition to the foregoing appropriations, from the state general fund to the state board of adjustment, the sum of \$400,000.00 for each fiscal year for the purpose of paying death benefits covered under the provisions of article 1 of chapter 30 of Title 36 of this Code.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:31 P.M.

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Act No. 89-871

H.J.R. 669—Rep. Johnson (RG)

## HOUSE JOINT RESOLUTION

### COMMENDING MAJOR GENERAL JAMES W. CRYSEL ON HIS DISTINGUISHED MILITARY CAREER.

WHEREAS, this legislative body notes with utmost pride the distinguished military career of Major General James W. Crysel, who was born in Luverne, Alabama, and who is a 1955 graduate of Sylacauga High School; and

WHEREAS, Major General Crysel became the second commander of the U.S. Total Army Personnel Agency, Alexandria, Virginia, on July 21, 1988, and previously held numerous other vital assignments including Commanding General, 25th Infantry Division, Schofield Barracks, Hawaii; Deputy Director for Plans, J5, United States Pacific Command; and Assistant Division Commander with the 101st Airborne Division, Fort Campbell, Kentucky; and

WHEREAS, we are keenly aware of native Alabamians' contributions to the military defense of our country and with utmost pride we note the major accomplishments of our citizens in times of war and peace; and

WHEREAS, Major General James W. Crysel is another native son our state proudly claims in the long roster of American soldiers and sailors whose leadership, dedication, devotion and industry have helped to ensure our freedoms; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we most highly commend Major General Crysel for his service to the United States and his contributions to his home State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Major General Crysel so he may know of our esteem.

Approved May 17, 1989

Time: 4:42 P.M.

Act No. 89-872

H.J.R. 670—Rep. Johnson (RG)

### HOUSE JOINT RESOLUTION

COMMENDING GERALD DOUGLASS, HEAD BASKETBALL COACH OF SYLACAUGA HIGH SCHOOL.

WHEREAS, it is with a sense of great pride that the House of Representatives of the Legislature of Alabama notes the numerous contributions and professional achievement of Gerald Douglass, of Sylacauga, Alabama; and

WHEREAS, Gerald Douglass, a 1975 graduate of the University of Montevallo, and the head basketball coach of Sylacauga High School, was one of the first six persons to be inducted into the UM's Sports Hall of Fame, on May 6, 1989; and

WHEREAS, Coach Douglass holds the University of Montevallo career basketball scoring record with 1,860 points and is UM's all time career rebound leader with 1,165 points; he also was a second-team All-American in 1975; and

WHEREAS, during his basketball career from 1971 through 1975 at Montevallo, the Falcons won the Southern States Tournament in 1975 and won a trip to the NAIA National Tournament; and

WHEREAS, as a basketball coach, Gerald Douglass led his Sylacauga team to the 1988 State 5A Championship; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Gerald Douglass for his many accomplishments as a player and coach, and we congratulate him on his induction into the University of Montevallo Sports Hall of Fame.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Coach Gerald Douglass as a mere token of high esteem and warmest personal regard.

Approved May 17, 1989

Time: 4:41 P.M.

Act No. 89-873

H.J.R. 671—Reps. Knight and Hill

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HOUSE JOINT RESOLUTION

EXTENDING CONGRATULATIONS AND BEST WISHES  
TO DR. JOHN STEWART, PRESIDENT OF THE UNIVERSITY  
OF MONTEVALLO.

WHEREAS, the Board of Trustees of the University of Montevallo has selected Dr. John Stewart as President of the University of Montevallo; and

WHEREAS, Dr. Stewart served with great distinction and leadership as Interim President; and

WHEREAS, prior to serving as Interim President, Dr. Stewart served in various teaching capacities at the University since 1962, and most recently served as Dean of the College of Fine Arts; and

WHEREAS, Dr. Stewart's career has been marked by the highest degree of personal integrity, excellent rapport with colleagues and students, academic excellence, and other virtues which have won the affection, respect, and gratitude of all aspects of the University and local community; and

WHEREAS, this Legislature recognizes the many difficulties a university president encounters, and knows that it takes an individual of great administrative skill, vision, dedication, and academic leadership to meet those challenges; and

WHEREAS, the Board of Trustees has expressed its complete confidence in Dr. Stewart's abilities as the right individual to guide the University, a state institution which has enjoyed a history of leadership as a liberal arts institution; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby congratulate Dr. John Stewart on his selection as President of the University of Montevallo as further evidence of a career filled with such contributions, and that we do extend to him and to First Lady Lauris Stewart our sincere best wishes for much success and happiness.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared and presented to Dr. John Stewart as a testimonial of our congratulations and best wishes.

Approved May 17, 1989

Time: 4:40 P.M.

Act No. 89-874

H. 17—Reps. Breedlove, Mathis, Warren  
and Richardson

## AN ACT

To provide for and permit the breeding of farm-raised alligators for certain commercial purposes; to provide for the regulation of, and to regulate, the breeding, exhibiting, selling, purchasing, shipping, or transporting of farm-raised alligators or the skins, carcasses or parts thereof, by the state department of conservation and natural resources; to provide for the licensing of alligator farmers, alligator parts dealers, and certain retailers and restaurants; to provide for the procedure for tagging of certain alligator skins, carcasses, meat or parts; to provide for certain property rights in certain alligators and parts thereof; to provide for the furnishing or retention or inspection of certain records or bills of sale, relating to the sale or purchase or shipment of certain such alligator skins or carcasses or parts; to provide for a severance tax upon the skins of certain alligators taken within this state; to prohibit the taking or possession of alligators or their eggs, skins, or parts except as provided herein; to provide for the voiding of said licenses under certain circumstances; to provide for the forfeiture and disposal of certain alligators, parts, and skins and the cancellation of alligator farmer licenses under certain circumstances; and to provide for penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the purposes of this act, the following terms shall have the meanings described herein, unless the context otherwise requires:

(a) "Alligator farm" means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications prescribed by the department, where alligators are bred and raised under controlled conditions.

(b) "Alligator farmer" means a person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, and who may harvest alligators under the supervision of the department.

(c) "Alligator part" means any part of the carcass of an alligator, except its skin.

(d) "Alligator parts dealer" means any person who deals in alligator parts and who buys from an alligator farmer for the purpose of resale; or manufactures within the state alligator parts into a finished product; or purchases, cans, processes, or distributes alligator meat for wholesale or retail; provided, that a retailer selling canned alligator parts or a retailer purchasing alligator parts from an alligator parts dealer or a restaurant selling prepared alligator meat for human consumption shall not be classified as an alligator parts dealer.

(e) "Commissioner" means the commissioner of the Alabama department of conservation and natural resources.

(f) "Department" means, the Alabama department of conservation and natural resources.

(g) "Transport" means, in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

**Section 2.** Any person, firm, or corporation may engage in the business of propagating alligators on an alligator farm for re-stocking, propagation, and other commercial purposes by complying with the provisions of this act, and may thereafter sell either live alligators to other licensed alligator farmers only, or the parts of skins of such farm-raised alligators to any person, for any purpose, including sale for food, either within or without this state.

**Section 3.** Whoever desires to engage in the business of raising, exhibiting, and selling alligators on alligator farms shall apply to the department for a license to do so. If it appears that the application is made in good faith, upon payment of one thousand dollars (\$1,000.00), an alligator farmer license may be issued permitting the applicant to breed, propagate, exhibit and sell to other licensed alligator farmers only, such alligators alive, or sell their skins and parts and to kill and transport them and sell their skins and parts as herein provided.

**Section 4.** Alligator farmer licenses shall expire on the thirtieth day of September of each year. On or before the first day of October of the following year, every licensee shall apply for a renewal of his license. In conjunction with this application, the licensee shall provide a report including all information as specified by the department. Upon payment of one thousand dollars (\$1,000.00), the department shall renew his license.

**Section 5.** Alligators raised on such licensed breeding farms may be sold alive to other licensed alligator farmers only, or taken for their skins or for food, according to such rules and regulations as the department may promulgate. All skins shall be tagged according to rules and regulations of the department. The severance tax, as provided in Section 11 of this act, shall be paid before the raw alligator skins are sold or shipped within or without the state, and a written affidavit as to the number and kinds of skins sold or shipped shall be furnished to the department as specified. No alligator carcass or parts intended for sale shall be shipped, transported, sold, or offered for sale unless tagged according to department regulations.

**Section 6.** Whoever under the authority of this act has in his lawful possession any such alligators or parts thereof on such posted or fenced alligator farm shall have a property right therein and shall be the owner thereof. Whoever enters the alligator farm and catches,

takes, or attempts to catch or take such alligators when the area has been posted or fenced according to law shall be punished as though the alligators were ordinary domestic animals and subject to the property rights of the state of Alabama.

**Section 7.** (a) Each alligator parts dealer shall secure an alligator parts dealer license from the department before commencing business. The license shall be secured annually and shall be furnished upon the payment of one hundred dollars (\$100.00).

(b) Each retailer selling canned alligator parts or purchasing alligator parts, and each restaurant selling prepared alligator meat for human consumption shall secure a license from the department before commencing business. The license shall be secured annually and shall be furnished upon payment of five dollars (\$5.00).

**Section 8.** (a) Any licensed alligator farmer may sell alligator carcasses or parts, provided he completes an official alligator parts transaction form, furnished by the department, for every alligator parts transaction. These forms shall be submitted to the department at thirty day intervals until all parts are sold.

(b) Any alligator parts dealer purchasing alligator parts, other than skins, shall complete an official alligator parts transaction form for each purchase. Any alligator parts dealer selling alligator parts, other than skins, shall complete an official alligator parts sale form for each sale. These forms shall be furnished by the department and shall be submitted to the department at thirty day intervals until final disposition of all parts. Each alligator farmer and parts dealer shall furnish a bill of sale to each retailer or restaurant purchasing alligator parts.

(c) Any retailer or restaurant purchasing alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase. These records shall be available for inspection at any and all reasonable hours by the Commissioner of Conservation and Natural Resources, his law enforcement officers or any other persons appointed and designated by him for such purpose.

(d) The records of transaction involving alligator parts of alligator farmers and parts dealers shall be available for inspection at any and all reasonable hours by the Commissioner of Conservation and Natural Resources, his law enforcement officers or any other persons appointed and designated by him for such purpose. Each parts dealer shall maintain complete records for a period of one year following any transaction.

**Section 9.** Each alligator farmer shall tag with an official alligator parts tag, furnished by the department, all carcasses, meat, or nonedible alligator parts prior to sale and upon dissection from

the carcass. This tag shall be completed in full and remain attached to the carcass or part until final disposition by the alligator farmer, parts dealer, or consumer if purchased directly from an alligator farmer.

**Section 10.** All raw alligator skins shipped within this state shall be tagged so as to show the number and kinds of skins in the shipment, the consignor, shipping point, consignee, and destination. The department shall supply suitable tags to all shippers requiring them for actual shipments. No alligator skin intended for shipment within this state shall be accepted by any post office, express company, or agent, or the agent of any common carrier, unless there is attached to one of the packages composing the shipment to each consignee one of the tags specified herein.

**Section 11.** There is hereby levied a severance tax on each alligator skin taken from any alligator within this state, payable to the state through the department by the alligator farmer selling or shipping his skins within or without the state or taking his own catch out of state, at the rate of one dollar (\$1.00) on each skin. Failure to pay such severance tax subjects all alligator skins held by such alligator farmers to confiscation by order of the department. Failure to maintain complete records and to pay the severance tax as provided herein subjects any alligator farmer to the full penalties provided in this act and the immediate revocation of his license by the department. No license shall be issued to any alligator farmer who has not paid such severance tax for the preceding year. Violation of this section is a Class A misdemeanor.

**Section 12.** No person shall take or possess the eggs of alligators, alligators, or their parts or skins in any county of this state except as provided for herein this act, and the provisions of this section shall not apply to legal finished products, alligators or parts thereof legally acquired prior to the effective date of this act, or alligators harvested or collected under a permit from the Commissioner of the Department of Conservation and Natural Resources. Violation of this section is a Class C felony.

**Section 13.** All license fees and taxes resulting from the provisions of this act shall be paid into the state treasury to the credit of the game and fish fund of the department of conservation and natural resources.

**Section 14.** Notwithstanding anything herein to the contrary, in the event the Federal government places the alligator in an endangered species status, all licenses issued pursuant to this act shall be null and void upon the earlier of the following dates: (1) the expiration date of said licenses or (2) one year from the date that



the Federal government placed the alligator in an endangered species status.

**Section 15.** Any person licensed as an alligator farmer under section 3 of this act convicted of violating any of the provisions of this act shall have his license cancelled and all alligators, alligator parts, and alligator skins in his possession shall be forfeited to the department of conservation and natural resources. These shall be disposed of by the department through public auction and the proceeds thereof deposited in the game and fish fund. Any alligator farmer having his license so cancelled will be ineligible to purchase such a license for a period of five years. After five years, said person may purchase an alligator farmer license only on written recommendation of the director of the game and fish division of the department.

**Section 16.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 17.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:39 P.M.

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Act No. 89-875

H. 159—Reps. Penry, McMillan  
and Blakeney

### AN ACT

To authorize the State Board of Health to inspect waters in which oysters are harvested and to close the oyster beds where the waters are declared unsafe for harvesting oysters for human consumption and to set a penalty for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The State Board of Health is authorized to inspect the waters of the state where oysters are grown and harvested. When the State Health Officer shall determine that the waters surrounding the oyster beds are unsafe for the harvesting of said oysters, the State Health Officer shall issue an order to close the waters around said bed which order shall be specific as to location of the area to be closed. Orders issued pursuant to this section shall not be considered rules under the Alabama Administrative Procedure Act. After the issuance of such a closure order, no person shall harvest oysters

in the said waters during the closure period. The State Health Officer is authorized to permit the Department of Conservation and Natural Resources to relay oysters from closed areas.

**Section 2.** The State Board of Health is authorized to adopt and promulgate reasonable rules for the enforcement of this Act, which rules shall have the force and effect of law.

**Section 3.** Any person who violates any provision of this Act or any rule promulgated hereunder or the Order of the State Health Officer by harvesting oysters from a closed bed shall be guilty of a Class "B" misdemeanor.

**Section 4.** The Alabama Department of Conservation and Natural Resources shall cooperate with the State Health Officer in the enforcement of closure orders.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:39 P.M.

Act No. 89-876

H. 170—Rep. Carter

### AN ACT

To provide that out-of-court statements made by children under twelve years of age at the time of the proceeding concerning an act that is a material element of any crime involving child sexual abuse, as defined, not otherwise admissible are admissible in a criminal proceeding in certain circumstances; to specify those circumstances; and to define crimes involving child sexual abuse for purposes of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This bill shall be entitled "The Child Sexual Abuse Victim Protection Act of 1989."

**Section 2.** An out-of-court statement made by a child under twelve years of age at the time of the proceeding concerning an act that is a material element of any crime involving child sexual abuse, as defined in Section 8 below, which statement is not otherwise

admissible in evidence, is admissible in evidence in criminal proceedings, if the requirements of Section 3 are met:

**Section 3.** An out-of-court statement may be admitted as provided in Section 2, if:

(a) The child testifies at the proceeding, or testifies by means of video tape deposition as provided by Code of Alabama 1975, §15-25-2, or testifies by means of closed circuit television as is provided in Code of Alabama 1975, §15-25-3, and at the time of such testimony is subject to cross-examination about the out-of-court statements; or

(b) (1) The child is found by the court to be unavailable to testify on any of these grounds:

(i) the child's death

(ii) The court finds that there are reasonable grounds to believe that the defendant or someone acting on behalf of the defendant has intentionally removed the child from the jurisdiction of the Court.

(iii) the child's total failure of memory

(iv) the child's physical or mental disability

(v) the child's incompetency, including the child's inability to communicate about the offense because of fear or a similar reason; or

(vi) substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of closed circuit television; and

(c) The child's out-of-court statement is shown to the reasonable satisfaction of the court to possess particularized guarantees of trustworthiness.

**Section 4.** A finding of unavailability under Section 3(b)(1)(i), (iii), (iv), (v), and (vi). (vii) must be supported by expert testimony.

**Section 4.5** Before a statement may be admitted pursuant to this act on the grounds that the child declarant is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

**Section 5.** The proponent of the statement must inform the adverse party of the opponent's intention to offer the statement and the content of the statement sufficiently in advance of the proceeding to provide the defendant with a fair opportunity to prepare a response to the statement before the proceeding at which it is offered.

**Section 6.** The court shall inform the jury that the out of court statement was taken without the defendant being afforded cross examination of such out of court statement.

**Section 7.** In determining whether a statement possesses particularized guarantees of trustworthiness under Section 3(b)(2), the court shall consider any one, but is not limited to, the following factors.

- (a) the child's personal knowledge of the event;
- (b) the age and maturity of the child;
- (c) certainty that the statement was made, including the credibility of the person testifying about the statement;
- (d) any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
- (e) the timing of the child's statement;
- (f) whether more than one person heard the statement;
- (g) whether the child was suffering from pain or distress when making the statement;
- (h) the nature and duration of any alleged abuse;
- (i) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
- (j) whether the statement has a "ring of verity," has an internal consistency or coherence, and uses terminology appropriate to the child's age;
- (k) whether the statement is spontaneous or directly responsive to questions;
- (l) whether the statement is suggestive due to improperly leading questions;
- (m) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

**Section 8.** The court shall support with findings record any rulings pertaining to the child's unavailability and the trustworthiness of the out-of-court statement.

**Section 9.** For the purposes of this act, "crime involving child sexual abuse" is defined to include the following crimes, when one or more of the victims is a child under 12 years of age:

- (a) rape in any degree;
- (b) sodomy in any degree;
- (c) sexual abuse in any degree;
- (d) sexual misconduct;

(e) enticing a child to enter a vehicle, room, house, office, or other place, for immoral purposes; and

(f) any crime involving the production of child pornography.

**Section 10.** Nothing contained in this act shall be construed to limit to prevent the admissibility of any out-of-court statement that would be admissible if this act did exist.

**Section 11.** This act applies in cases involving crimes that occur after its effective date. Cases involving crimes that occurred before the effective date of this act are governed by pre-existing law.

**Section 12.** The provisions of this act are severable. If any part of this act is declared unconstitutional, such declaration shall not affect the part which remains.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:38 P.M.

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Act No. 89-877

H. 297—Rep. Brooks

### AN ACT

To propose that any person or candidate involved in certain election contests is entitled to make an examination of the ballots cast, given, or rejected in the election and provides the procedures for examination of the ballots cast, given, or rejected.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** In all election contests other than political party primaries or run-offs, any person or candidate involved in the contest is entitled to make an examination of the ballots cast, given, or rejected in the election, to make an examination of the voting machines used in the election, and to make an examination of voting machine computations or printouts.

**SECTION 2.** In all election contests involving elections other than party primaries or run-offs:

(a) The examining person or candidate seeking to examine the ballots, voting machines, or voting machine computations or printouts must move, within ten days of the filing of the contest, the court before whom the election contest is pending for an examination. The court shall set a hearing on the motion for examination which must

take place within ten days after service of the motion on the parties and candidates involved in the election contest. The hearing shall be held to determine the procedures to be used for the examination and the court shall, within five days after the hearing, set forth the procedures for the examination. Absent a subsequent court order extending the time for reasonable cause shown, the examination must be finished within fifteen days of the court order which sets forth the examination procedures.

(b) Examination procedures shall be within the discretion of the court. The court shall consider, in determining appropriate procedures, the need to preserve the integrity of the ballots, voting machines, and voting machine computations and printouts; the need to ensure that votes were accurately cast and counted; the need to ensure that all persons and candidates involved in the election have the opportunity to observe the examination and ensure that an examination does not wrongfully alter the election results; the need to expeditiously conclude the election contest; and any other factor which is relevant to the integrity of the election process. The court must, when so requested by any party or candidate involved in the contest, allow such party or candidate, and his agents, to observe all of the examination proceedings.

(c) The court shall require the examining party or candidate to make a deposit with the court or post a bond in a sum adequate to ensure prompt payment of all reasonable, necessary and actual expenses incurred by any governmental entity during and as a result of the examination. If the examining person or candidate prevails in the election contest as a result of information obtained from the examination of the ballots, voting machines, or voting machine computations or printouts, he shall not be responsible for any expenses or costs incurred by any governmental entity during and as a result of the examination.

**SECTION 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**SECTION 4.** All laws or parts of laws which conflict with this act are hereby specifically repealed.

**SECTION 5.** This act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved May 17, 1989

Time: 4:37 P.M.

Act No. 89-878

H. 311—Reps. Penry, Box and Clark (J)

## AN ACT

To establish the Uniform Commercial Driver License Act, setting testing and licensing standards for operators and employers of commercial vehicles; to prescribe that certain minimum information be included on commercial driver licenses; to define groups of commercial vehicles; to provide for the costs of licenses, restrictions and endorsements for each such group; to exclude certain vehicles for personal or recreational purposes and certain testing for certain persons with certain skills and experience and to grandfather in certain persons; to prescribe the qualifications for applications and the manner of testing and licensing; to provide that no person shall be eligible to hold more than one driver license; to prescribe certain notification processes; to require employers to obtain and determine certain information about applicants and drivers; to provide for the issuance of permits; to authorize the director and department to issue, promulgate and enforce certain guidelines, conditions, standards, rules and regulations, pursuant to the provisions of this act and federal regulations; prescribing lifetime and temporary revocations and suspensions of license for certain felony violations involving controlled substances and driving while under the influence with certain blood concentrations; to authorize the director and the department of public safety to enter into certain contracts or agreements to implement the provisions of this act and reciprocity with other states, provinces and territories, and to provide the conditions therefor; to provide for the full faith and credit of out-of-state convictions; to prescribe certain criminal penalties and punishment for certain violations, upon conviction, and to make such penalties and punishment cumulative to any and all other such provisions; and to specifically repeal laws conflicting with this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act may be cited as the Alabama Uniform Commercial Driver License Act.

**Section 2.** The purpose of this act is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII of Pub. Law 99-570) and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

- (a) Permitting commercial drivers to hold only one license;
- (b) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;
- (c) Strengthening commercial driver licensing and testing standards.

This act is a remedial law which should be liberally construed to promote the public health, safety and welfare. To the extent that this act conflicts with general driver licensing provisions, this act prevails. Where this act is silent, the general driver licensing provisions apply.

**Section 3.** Notwithstanding any other provision of this act, the following definitions shall be applicable unless the context clearly indicates otherwise:

(a) Alcohol. "Alcohol" means:

(1) Beer, ale, port or stout and other similar fermented beverages (including sake or similar products), of any name or description containing one-half of one percentum or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(2) Wine of not less than one-half of the percentum of alcohol by volume; or

(3) Any substance containing any form of alcohol, including but not limited to, ethanol, methanol, propanol and isopropanol.

(b) Alcohol Concentration. "Alcohol Concentration" means:

(1) The number of grams of alcohol per 100 milliliters of blood; or

(2) The number of grams of alcohol per 210 liters of breath; or

(3) The number of grams of alcohol per 67 milliliters of urine.

(c) Commercial Driver License. "Commercial Driver License" (CDL) means a license issued in accordance with the requirements of this act to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(d) Commercial Driver License Information System. The "Commercial Driver License Information System" (CDLIS) is the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(e) Commercial Motor Vehicle. "Commercial Motor Vehicle" means a motor vehicle designed or used to transport passengers or property:

(1) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds of such lesser rating as determined by federal regulation;

(2) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with federal or state law.

(f) Controlled Substance. "Controlled Substance" means any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed on



Schedules I through V, of 21 CFR Part 1308, as they may be revised from time to time.

(g) Conviction. "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, or a plea nolo contendere accepted by the court, regardless of whether or not the penalty is rebated, suspended or probated.

(h) Department. "Department" means the department of public safety.

(i) Director. "Director" means the director of the department of public safety.

(j) Disqualification. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle, pursuant to Section 32-5A-195, Code of Alabama 1975, as amended, and this act.

(k) Drive. "Drive" means to drive, operate or be in physical control of a motor vehicle.

(l) Driver. "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver license.

(m) Driver License. "Driver License" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.

(n) Employer. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(o) Felony. "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(p) Foreign Jurisdiction. "Foreign Jurisdiction" means any jurisdiction other than a state, territory, province or possession of the United States.

(q) Gross Vehicle Weight Rating. "Gross Vehicle Weight Rating" (GVWR) means the value specified by the manufacturer(s) as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle (commonly referred to as the

"Gross Combination Weight Rating" or GCWR), is the GVWR of the power unit plus the GVWR of the towed unit or units.

(r) Hazardous Materials. "Hazardous Materials" has the meaning as that found in Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.), and as provided by any federal or state law, existing or hereafter enacted.

(s) Motor Vehicle. "Motor Vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs.

(t) Out of Service Order. "Out of Service Order" means a temporary prohibition against driving a commercial motor vehicle.

(u) Serious Traffic Violation. "Serious Traffic Violation" means a conviction when operating a commercial motor vehicle of:

(1) Excessive speeding, involving a single charge of any speed 15 miles per hour or more, above the posted speed limit;

(2) Reckless driving, as defined under Section 32-5A-190, Code of Alabama 1975, as amended, or any other state or local law, including charges of driving a commercial motor vehicle in willful or wanton or reckless disregard for the safety of persons or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;

(3) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident; and

(4) Any other violation of Title 32, chapter 5A, article 9, Code of Alabama 1975, as amended, or any state or local law relating to motor vehicle traffic control, other than a parking violation, which the director of the department of public safety determines by regulation to be serious.

(v) State. "State" means a state of the United States and the District of Columbia;

(w) United States. "United States" means the fifty states and the District of Columbia, or a territory, province or possession thereof.

**Section 4.** Limitation on Number of Driver Licenses. No person who drives a commercial motor vehicle may have more than one driver license.

**Section 5.** Notification required by driver shall be as follows:

(a) Notification of convictions:

(1) To state. Any driver holding a commercial driver license issued by this state, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control, in any other state or federal, provincial, territorial or municipal laws of Canada, other than parking violations, must notify the department of public safety in the manner specified by the department within thirty days of the date of conviction.

(2) To employers. Any driver holding a commercial driver license issued by this state, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, or federal, provincial, territorial or municipal laws of Canada, other than parking violations, must notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(b) Any driver whose commercial driver license is suspended, revoked, or cancelled by any state, or federal, provincial, territorial or municipal laws of Canada, or who loses the privilege to drive a commercial motor vehicle in any such state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out of service order, must notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(c) Any person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) The dates between which the applicant drove for each employer; and

(3) The reason for leaving that employer. The applicant must certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

**Section 6.** (a) Each employer must require the applicant to provide the information specified in Section 5(c).

(b) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has had his or her commercial driver license suspended, revoked, or cancelled by any state, is currently

disqualified from driving a commercial vehicle, or subject to an out of service order in any state; or in which the driver has more than one driver license.

**Section 7.** (a) Except when driving with a valid automobile license and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this state unless the person holds, and is in immediate possession of, a commercial driver license with applicable endorsements valid for the vehicle he or she is driving.

Active duty military or National Guard personnel operating government vehicles, farmers operating certain commercial motor vehicles, fire fighters and operators of emergency equipment from licensing provisions of the CMVSA are exempt from this act as detailed in FHWA's "Notice of Final Disposition" published in the Federal Register, September 26, 1988, 53 FR 37313, and as hereafter updated.

Commercial driver license requirements do not apply to drivers of vehicles used for personal use such as recreational vehicles which would otherwise meet the definition of a commercial motor vehicle.

(b) No person may drive a commercial motor vehicle on the highways of this state while his or her driving privilege is suspended, revoked, or cancelled, while subject to a disqualification, or in violation of an out of service order.

**Section 8.** Commercial driver license qualification standards shall be as follows:

(a) Testing.

(1) General—No person may be issued a commercial driver license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department.

(2) Third party testing—The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government to administer the skills test specified by this section, provided:

(i) the test is the same which would otherwise be administered by the state;

(ii) the third party has entered into an agreement with this state which complies with requirements of 49 C.F.R., part 383.75; and

(b) Waiver of skills test—The department may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77. In the case of school bus drivers the department shall waive the skills test herein specified.

(c) Limitations on issuance of license—A commercial driver license, may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked or cancelled in any state or foreign jurisdiction with reciprocity; nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state(s) for cancellation.

(d) The holder of a valid Class D driver license may drive a commercial motor vehicle only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial vehicle.

**Section 9.** Application for commercial driver license shall be processed as follows:

(a) The application for a commercial driver license or commercial driver instruction permit, must include the following:

(1) The full name and current mailing (and residential, if different) address of the person;

(2) A physical description of the person including sex, height, weight, eye and hair color;

(3) Date of birth;

(4) The applicant's social security number;

(5) The person's signature;

(6) The person's color photograph;

(7) Certifications including those required by 49 C.F.R. part 383.71 (a).

(8) Any other information required by the department; and

(9) A signed consent to release driving record information.

The application must be accompanied by an application fee of \$5.00. The application fee costs for school bus drivers shall not be assessed against existing bus drivers nor school boards.

(b) When the holder of a commercial driver license changes his or her name, mailing address, or residence, an application for a duplicate license must be made as provided by law.

(c) No person who has been a resident of this state for 30 days may drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

(d) Any person who knowingly falsifies information or certifications required under subsection (a) of this section is subject to suspension, revocation, or cancellation of his or her commercial driver license for a period of at least 60 consecutive days.

**Section 10.** (a) The commercial driver license must be marked "Commercial Driver License" or "CDL," and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

- (1) The name and residential address of the person;
- (2) The person's color photograph;
- (3) A physical description of the person including sex, height, weight, eye and hair color;
- (4) Date of birth; and
- (5) The person's social security number and any other number or identifier deemed appropriate by the department;
- (6) The person's signature;
- (7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
- (8) The name of this state; and
- (9) The dates between which the license is valid.

(b) Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles including (Class D), except motorcycles (Class M). Vehicles which require an endorsement may not be driven unless the proper endorsement appears on the license.

(1) Commercial driver licenses shall be classified as follows:

Class A—Any combination of vehicles with a gross vehicle weight rating (GVWR) of 26,001 pounds or more, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

Class B—Any single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

Class C—Any single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising:

(i) Vehicles designed to transport 16 or more passengers, including the driver; and

(ii) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R., part 172, subpart F.

(2) Endorsements and restrictions shall be coded as follows:

“H”—Authorizes the driver to drive a vehicle transporting hazardous materials.

“K”—Restricts the driver to vehicles not equipped with airbrakes.

“T”—Authorizes driving double and triple trailers.

“P”—Authorizes driving vehicles carrying passengers.

“N”—Authorizes driving tank vehicles.

“X”—Represents a combination of hazardous materials and tank vehicle endorsements.

(c) Before issuing a commercial driver license, the department must obtain driving record information through the Commercial Driver License Information System, the National Driver Register and from each state in which the person has been licensed.

(d) Within ten days after issuing a commercial driver license, the department must notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(e) A commercial driver license issued pursuant to this act expires as set by existing state law.

(f) Renewal procedures for commercial driver licenses shall be as follows: every person applying for renewal of a commercial driver license must complete the application form required by Section 10 (a), providing updated information and required certifications. If the

applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

**Section 11.** (a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a commercial motor vehicle under the influence of alcohol, or a controlled substance or any other drug which renders a person incapable of safely driving;

(2) Driving a commercial motor vehicle while the alcohol concentration of the person's blood, urine, or breath is 0.04 or more;

(3) Knowingly and willfully leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(4) Using a commercial motor vehicle in the commission of any felony as defined in this act; and

(5) Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(b) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from two or more separate incidents.

(c) The department may issue regulations and promulgate establishing guidelines, including conditions, under which a disqualification for life under paragraph (b) may be reduced to a period of not less than ten years.

(d) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute to dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(f) After suspending, revoking, or cancelling a commercial driver license, the department must update its records to reflect that action



within ten days. After suspending, revoking or canceling a nonresident commercial driver's privilege, the department must notify the licensing authority of the state which issued the commercial driver license or commercial driver instruction permit within ten days.

Any failure to report or disclose required information, either before or after issuance of a commercial driver license shall be a Class C felony and shall, upon conviction thereof, be punished as provided by law.

**Section 12.** (a) Notwithstanding any other provision of this act, or of existing law, a person may not drive, operate, or be in physical control of a commercial motor vehicle within this state while having any measurable or detectable amount of alcohol in his or her system.

(b) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any measurable or detectable amount of alcohol in his or her system or who refuses to submit to an alcohol test under Section 13 of this act, must be placed out of service for 24 hours.

(c) Any person who drives a commercial motor vehicle within this state with an alcohol concentration of 0.04 or more must, in addition to any other sanctions which may be imposed under this act, or under federal or state law, or rules or regulations of the department, be disqualified from driving a commercial vehicle under Section 11 of this act.

**Section 13.** (a) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to provisions of Section 32-5-192 of the Code of Alabama 1975, as amended, to take a test or tests of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration, or the presence of other drugs.

(b) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his or her system.

(c) A person requested to submit to a test as provided in subsection (a) above must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test will result in that person being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year under Section 12 of this act.

(d) If the person refuses testing, or submits to a test which discloses an alcohol concentration of 0.04 or more, the law enforcement officer must submit a sworn report to the department certifying that the test was requested pursuant to subsection (a) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of 0.04 or more.

(e) Upon receipt of the sworn report of a law enforcement officer submitted under subsection (d), the department must disqualify the driver from driving a commercial motor vehicle under Section 12 of this act.

**Section 14.** Within ten days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the department must notify the driver licensing authority in the licensing state of the conviction.

**Section 15.** Notwithstanding any other provision of law to the contrary, the department must furnish full information regarding the driving record of any person:

(a) To the driver license administrator of any other state, or province or territory of Canada, requesting that information;

(b) To any employer or prospective employer upon request and payment of a fee of \$5.75; and

(c) To insurers upon request and payment of a fee of \$5.75.

**Section 16.** Rulemaking authority. The director and the department of public safety may adopt any reasonable rules and regulations necessary to carry out the provisions of this act, and may promulgate and enforce such rules and regulations in accordance with the guidelines of the department of transportation.

**Section 17.** Authority to enter into agreements. The department may enter into or make agreements, arrangements or declarations to carry out the provisions of this act.

**Section 18.** Reciprocity. (a) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver license or commercial driver license instruction permit issued by any state or provinces or territories of Canada in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the license is not suspended, revoked or cancelled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an out of service order.

(b) The department must give all out of state convictions full faith and credit and treat them for sanctioning purposes under this act as if they occurred in this state.

**Section 19.** For the purpose of defraying the cost of issuing commercial drivers' license, the probate judge or license commissioner shall collect for each Class A commercial driver license the sum of \$45.00; the sum of \$35.00 for each Class B commercial driver license; the sum of \$15.00 for each Class C commercial driver license. These licenses shall be issued for a period of four years.

**Section 20.** Only offenses committed sixty (60) days after the effective date of this act, and thereafter, shall be affected by the provisions of this act.

**Section 21.** All sanctions, penalties, punishment and fines, whether civil or criminal, are cumulative and shall be levied in addition to any and all other laws now provided relating to commercial motor vehicle licensure requirements, except to the extent such laws or sanctions, penalties, punishment and fines are in direct conflict with the provisions of this act, in which event this act shall supersede.

**Section 22.** Any person who violates the provisions of Section 4 of this act, shall, be guilty of a Class B misdemeanor and, upon conviction thereof, shall be sentenced or fined, or both, as provided by law.

**Section 23.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 24.** This act shall become effective October 1, 1990, except as otherwise herein provided.

Approved May 17, 1989

Time: 4:36 P.M.

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Act No. 89-879

H. 485—Rep. Zoghby

## AN ACT

To amend Sections 5-19-7 and 5-19-18, Code of Alabama 1975, relating to consumer finance, so as to provide that the provisions shall not apply to a consumer credit transaction that is repayable in a single payment.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 5-19-7 and 5-19-18, Code of Alabama 1975, are hereby amended to read as follows:

“§5-19-7.

“With respect to a consumer credit sale or loan or one pursuant to an open-end credit plan, if any scheduled payment is more than one and one-half times as large as the average of earlier scheduled payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable than the terms of the original transaction. These provisions do not apply if the debtor’s payment schedule has been adjusted to conform with the seasonal or irregular income of the debtor, or if a consumer credit sale or loan is repayable in a single principal payment irrespective of the scheduled interest payments.”

“§5-19-18.

“With respect to consumer credit transactions, where the debt is payable in installments, not made pursuant to an open-end credit plan and in which the principal is \$1,000.00 or less, the debt shall be scheduled to be payable in substantially equal installments at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor or when the transaction is a single principal payment obligation irrespective of the scheduled interest payments, and:

“(1) Over a period of not more than 36 months and 15 days if the principal or amount financed is more than \$300.00; or

“(2) Over a period of not more than 24 months and 15 days if the principal or amount financed is \$300.00 or less.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:35 P.M.

Act No. 89-880

H. 545—Reps. McMillan, Box, Kvalheim,  
Zoghby, Harper, Marietta,  
Gaston, Clark (W) and Penry

AN ACT

To create and establish the Alabama High School of Mathematics and Science; to provide for legislative intent; definitions; board of directors, membership, method

of appointment, duties, powers, compensation and terms of office; to provide for programs and operation; to provide for extracurricular activities; to prescribe eligibility requirements and to provide for funding.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is the intent of the legislature to establish an independent, residential school for certain high school students with the express purpose of providing a more challenging educational experience for the gifted and talented children of this state and of developing such children to their full potential.

**Section 2.** For the purposes of this act, the following words and phrases shall have the respective meanings ascribed by this section, except when the context clearly indicates a different meaning:

- (1) "Department" means the state department of education.
- (2) "School" means the Alabama High School of Mathematics and Science.
- (3) "State Board" means the State Board of Education.
- (4) "State Superintendent" means the State Superintendent of Education.

**Section 3.** (a) There is hereby created a pilot program to be called the Alabama High School of Mathematics and Science, which shall be a residential institution located in Mobile County, at a site to be determined by the board of directors. The school shall open and formally begin operation with the fall semester of 1991. The school shall be funded by the state from monies appropriated therefor; or grants, donations and funds from any other sources, including corporations, individuals and foundations.

(b) The school shall be governed by a board of directors whose membership, powers, duties, and responsibilities shall be as herein-after provided.

(c) The school shall coordinate its programs and curriculum with the Department of Education, but shall be independent of the control of the state superintendent and of all local and state education boards except its board of directors, except where otherwise provided by this act.

**Section 4.** (a) There is hereby created a board of directors for the school, sometimes hereinafter referred to as the "board." The board shall be composed of twenty-one members as follows:

- (1) The state department of education assistant state superintendent in charge of curriculum development.
- (2) The chancellor or his designee of the University of Alabama System.

(3) The president or his designee of Auburn University.

(4) The president or his designee of the University of South Alabama.

(5) The president or his designee of Alabama A&M University.

(6) Chairman, Alabama High School of Mathematics and Science Foundation.

(7) The chairman or his designee of the House Standing Committee on Education.

(8) The chairman or his designee of the Senate Standing Committee on Education.

(9) The chairman of the House Standing Committee on Ways and Means.

(10) The chairman of the Senate Standing Committee on Finance and Taxation.

(11) Coordinator of Mobile County Special Education.

(12) One instructor who is a member of the faculty, elected annually by faculty members.

(13) Nine members to be appointed by the Governor, one from each congressional district and two members appointed at large, who must be residents of Mobile or Baldwin Counties, all of whom must be from business and industry; at least two of the appointees must be minorities.

(b) The terms of the nine members appointed by the Governor shall be for six years, except for original appointees who shall serve staggered terms with 3 appointees serving 2 years, 3 appointees serving 4 years and 3 appointees serving 6 years. The terms of the initial members who are elected officials shall commence with their appointment, run concurrently with their terms of office and shall end when their successors take office; however, all members may succeed themselves.

(c) (1) The board is hereby authorized to:

a. Accept donations, bequests, or other forms of financial assistance for educational purposes from any public or private person or agency and comply with rules and regulations governing grants from the federal government or from any other person or agency, which are not in contravention of the constitution and laws.

b. Purchase land and equipment and make improvements to facilities necessary for the use of the school, in accordance with applicable law.

c. Lease land or other property belonging to it or to the school.

d. Sell or exchange land or other real property not needed for school purposes, but only when specifically authorized by law and then only in accordance with the procedures provided for the sale of unused school lands. The sale shall be authorized by resolution adopted by the board, and the act of sale shall be signed by the president of the board or such other person to whom the signing may be delegated by the board in the authorizing resolution.

e. Adopt, amend, or repeal rules, regulations, and policies necessary or proper for the conduct of the business of the board.

f. Award certificates and issue diplomas for successful completion of programs of study. All such certificates and diplomas shall be in addition to a regular high school diploma which shall be issued by the state board in accordance with state law to any student who successfully completes the program of study adopted by the board.

g. Enter into contracts and agreements which have been recommended by the director, in accordance with applicable law, and to the extent that funds are specifically appropriated therefor, with other public agencies with respect to cooperative enterprises and undertakings related to or associated with an educational purpose or program affecting education in the school. This shall not preclude the board from entering into other such contracts and agreements that it may deem necessary to carry out its duties and functions.

h. Perform such other functions as are necessary to the supervision and control of those phases of education under its supervision and control.

i. The board shall delegate to the director such of its powers and duties as it deems appropriate to aid the director in the efficient administration of his responsibility for the implementation of the policies of the board.

(2) In addition to the authorities granted herein and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

a. Adopt rules, regulations, and policies necessary for the efficient operation of the school.

b. Establish criteria to be used in determining eligibility of applicants for enrollment.

c. Determine subjects and extracurricular activities to be offered. Such subjects shall initially be subject to approval by the state board, and thereafter, changes in the subjects shall be subject to approval by the state board.

d. Select a director who shall be the chief administrative officer of the school and who shall administer the rules, regulations, and policies adopted by the board pursuant hereto. The director shall also be the chief administrative officer of the board and shall be responsible for all the administrative functions, duties, and needs of the board. Until such time as the board selects a director, the state superintendent of education shall serve as the chief administrative officer of the board and shall be responsible for the duties of the director as they relate to the board. The state superintendent of education shall relinquish such administrative duties to the director when such director officially assumes his duties with the board.

e. Determine faculty and staff positions necessary for the efficient operation of the school and select personnel for such positions.

f. Prepare and adopt an annual budget necessary for the continued operation of the school.

g. Pay the expenses, per diem, and travel expenses of the board and its members, which shall be the same as allowed state employees when the board member is traveling on board business. Pay the salaries and expenses, including but not necessarily restricted to facilities, equipment, and supplies of the faculty and staff of the school out of funds appropriated or otherwise made available for the operating and administrative expenses of the board and the school.

h. Exercise budgetary responsibility and allocate for expenditure by the school and programs under its jurisdiction all monies appropriated or otherwise made available for purposes of the board and of such school and programs.

i. Prescribe and select for use in the school free school books and other materials of instruction for children enrolled in the school and programs under its jurisdiction for which the legislature provides funds. Wherever practical, the board shall select the same school books and other materials of instruction as are adopted by the state board.

j. Prepare and adopt or approve programs of study and rules, bylaws, and regulations for the discipline of students and for the government of the school and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the staff and faculty of the school. Such programs of study shall initially be subject to approval by the state board, and thereafter, any changes in such programs of study shall be subject to approval by the state board.

k. Notwithstanding any provisions of law to the contrary, prescribe the qualifications and provide for the certification of teachers.



l. Notwithstanding any provision of law to the contrary, adopt rules and regulations under which faculty members may become permanent employees of the school.

m. Develop and adopt a formula or system under which students shall be admitted. Such formula or system shall be sufficient to insure that at least one qualified applicant for admission from within the geographical boundaries of each city and county school system shall be eligible for admission to the school each year. If no qualified applicant from a city or county public school system applies for admission, then the slot(s) available to that school system shall be lost to that system for that school year and shall be reallocated by the board to provide for the admission of qualified applicants from other public systems.

n. Adopt rules and regulations to provide for the evaluation of any applicant who has not been evaluated but who meets all other criteria for participation in the program.

(d) Twelve members of the board shall constitute a quorum for the transaction of business, and all official action of the board shall require the favorable vote of a majority of those members present and voting.

(e) Members of the board shall be compensated for all actual vouchered expenses incurred in the performance of their duties and functions as required by this act. Such expenses shall be paid by the Director from funds appropriated therefor by the legislature and upon the warrant of the board.

(f) The board of directors shall serve as the local educational agency for the school.

**Section 5.** (a) The school shall, at the discretion of the Board, operate on the same school year basis as all other public schools in Alabama. Full-time students shall be enrolled for the entire school year and may enroll in the summer program.

(b) A summer program shall be offered for full-time students and for students who qualify to attend the school during such period.

(c) The school shall also offer short courses, workshops, seminars, weekend instructional programs, and other innovative programs which can be used to offer instruction to students not enrolled as full-time students in the school.

(d) The school, at the discretion of its board of directors may provide extension courses and campuses on the campuses of other colleges and universities within the State of Alabama.

**Section 6.** Whenever possible, the school shall offer such extracurricular activities as may be found in any public secondary

school in the state. The Mobile County public school system shall, to the extent practicable and allowable by law, allow the students of the school to participate in any extracurricular activities the system may offer which the school cannot.

**Section 7.** The school shall primarily admit high school juniors and seniors; however, the board of directors may provide for an "early admission year" to allow the admission of students who are not yet high school juniors when the abilities of such students are so exceptional as to warrant such early entry.

**Section 8.** There is hereby conditionally appropriated the sum of three hundred thousand dollars (\$300,000) from the Alabama Special Educational Trust Fund to the Alabama High School of Mathematics and Science for the fiscal year ending September 30, 1990. Said appropriation shall be conditioned on the availability of funds in the Alabama Special Educational Trust Fund and the approval of the Governor.

**Section 9.** Nothing in this act shall be so construed as to prohibit or prevent the board from accepting federal funds or monies from any corporation or other private contributor for use in operating the school or providing programs by the school.

**Section 10.** It is not the intent of this legislature to conflict with existing or future programs of the Alabama School of Fine Arts as created by Act No. 1203, HJR 145, Regular Session 1971 (Acts 1971, p. 2089).

**Section 11.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:34 P.M.

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Act No. 89-881

H. 876—Reps. Melton, Davis and McClain

### AN ACT

To amend Sections 16-49-20, 16-49-26, 16-49-27 and 16-49-28 of the Code of Alabama 1975, relating to the Alabama Agricultural and Mechanical University board

of trustees so as to change the qualifications of a candidate for trustee; to redefine the time, frequency, and manner of convening; to reduce the number required for a quorum; and to provide for payment of expenses to ex officio members.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 16-49-20, 16-49-26, 16-49-27 and 16-49-28, Code of Alabama 1975, are hereby amended to read as follows:

“§16-49-20.

“There is hereby created a board of trustees for Alabama Agricultural and Mechanical University, a state land-grant educational institution at Huntsville. The board of trustees shall consist of 12 members, two who shall reside in the congressional district in which the institution is situated; one member shall reside in each of the remaining congressional districts in the state as constituted on September 5, 1975; three members shall be selected from the state-at-large, who shall reside in different districts; and the governor, who shall be ex officio president of the board. The president of the student government association shall be an ex officio non-voting thirteenth member. The trustees shall be appointed by the governor, by and with the advice and consent of the senate. The membership shall include at least three members who have earned a degree from Alabama Agricultural and Mechanical University. Except for the first trustees appointed, trustees shall hold office for a term of six years. No member presently serving as of January, 1989 shall have his or her current term of office terminated because of these provisions. All appointments shall be effective immediately ad interim. The board shall be divided into three classes so that one third shall be appointed biennially. Of the first members appointed to the board, three shall be designated by the governor to serve until January 31, 1978; four until January 31, 1980; and four to serve until January 31, 1982. A trustee may be appointed to serve a second term of six years, but no trustee shall be appointed to serve more than a total of 12 years. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of duties as such. No member of the governing board or officer of any public postsecondary educational institution, no person who has attained the seventy-first birthday prior to appointment, and no elected or appointed official having the power of review of the Alabama Agricultural and Mechanical University budget, other than the governor, shall be eligible to serve on the board of trustees.

“§16-49-26.

“The board of trustees of Alabama Agricultural and Mechanical University shall hold the regular annual meeting at the university on the fourth Thursday in October, unless the board Governor, as ex officio president, shall determine to hold its meeting at another

time in October. Special meetings of the board may be assembled by either one of the two methods outlined as follows:

“(1) Special meetings of the board may be called by the Governor. In calling such special meetings the governor shall mail a written notice to each trustee naming the time and place thereof, at least 10 days in advance of the date of such meeting.

“(2) Upon the application in writing of any four members of the board, the governor shall call a special meeting, naming the time and place thereof and causing notices to be issued in writing to the several members of the board. Such meeting shall not be held on a date less than 10 days subsequent to the notices from the governor. In the event of an emergency, the Governor, as ex officio president, is hereby authorized to call an emergency meeting.

“§16-49-27.

“Seven members, exclusive of the governor, of the board of trustees shall constitute a quorum, but a smaller number may adjourn from day to day until a quorum is present.”

“§16-49-28.

“The certificate of the president of the board or, in his absence, of the president pro tempore, countersigned by the secretary, shall entitle the several trustees and ex officio members to the payment of their actual expenses incurred in the discharge of their duties as such trustees, in conformity with regulations governing travel expenses of state officials.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:32 P.M.

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Act No. 89-882

H. 709—Rep. Higginbotham

## AN ACT

To amend Section 5-21-4, Code of Alabama 1975, which provides for a linked deposit plan for making low interest loans for qualified borrowers, so as to remove certain percentage restrictions on available investment portfolio funds used for said loans.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5-21-4, Code of Alabama 1975, is hereby amended to read as follows:

“§5-21-4.

“The Wallace plan for linked deposits, hereinafter referred to as “the plan” is hereby created. The state treasurer is authorized, effective April 7, 1988, and until September 30, 1991, to use up to 12 percent of the total amount of investment funds of the state portfolio for the plan as linked deposits for eligible loans.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1989

Time: 4:33 P.M.

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Act No. 89-883

H.J.R. 234—Rep. Holmes

### HOUSE JOINT RESOLUTION

PROVIDING FOR A SPACE IN THE STATE CAPITOL FOR PLACEMENT OF PICTURES AND PLAQUES BY THE SENIOR CITIZENS HALL OF FAME COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and recognition of the outstanding accomplishments and contributions of Alabama's senior citizens, an appropriate place in the State Capitol shall be selected by the State Finance Director, and thereafter allocated for use by the Senior Citizens Hall of Fame Commission to display selected pictures and plaques furnished by the commission.

BE IT FURTHER RESOLVED, That a copy of this resolution shall be forwarded to the State Finance Director for appropriate action in compliance with this resolution.

Approved May 17, 1989

Time: 4:45 P.M.

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Act No. 89-884

H.J.R. 485—Rep. Payne

### HOUSE JOINT RESOLUTION

DESIGNATING A PORTION OF ALABAMA HIGHWAY 75 AS THE “BOB HALL DRIVE.”

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That that portion of Alabama Highway 75, between its intersection with Alabama Highway 79 to Pinson Valley High School, in Jefferson County, Alabama, is hereby named in honor of former State Senator Robert B. "Bob" Hall and shall henceforth and forever be known as the "Bob Hall Drive."

BE IT FURTHER RESOLVED, That the proper authorities are herein authorized to erect and maintain appropriate signs and markers so designating said highway portion as the "Bob Hall Drive."

Approved May 17, 1989

Time: 4:43 P.M.

Act No. 89-885

H.J.R. 372—Reps. Venable, Buskey (JE),  
Zoghby and Curry

### HOUSE JOINT RESOLUTION

#### CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON ELECTION LAW REFORM.

WHEREAS, it is necessary for the Legislature to provide for fair and accurate elections in a democratic society; and

WHEREAS, among other issues there exists considerable conflicts in the current election laws, the costs involved in holding elections have increased dramatically, and the increased use of absentee ballots presents a potential for abuse; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study election law reform. The committee shall be composed of 4 members of each house, to be appointed by the presiding officer of each house. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets of the laws relating to elections.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the 5th legislative day of the 1990 Regular Session. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each

day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed \$5,000.00.

Approved May 17, 1989

Time: 4:44 P.M.

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Act No. 89-886

H.J.R. 238—Rep. Melton

### HOUSE JOINT RESOLUTION

#### CREATING AN INTERIM COMMITTEE ON LOW INCOME HOUSING.

WHEREAS, the Alabama Legislature notes that housing for people on low income has become critical and funding sources therefor difficult to obtain for most; and

WHEREAS, a comprehensive study plan to assess and present solutions to the housing needs of our citizens is necessary for the Governor and the Legislature to address those needs; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby create the Joint Interim Committee on Low Income Housing for the purpose of assessing and addressing the housing needs of Alabamians on low income. Such committee shall be composed of fifteen members to include four members from each the House and Senate, appointed by the Speaker of the House and the Lieutenant Governor, respectively; and seven members from the public and private sectors who shall be appointed as follows: one by the Alabama Banking Industry; one by the Alabama Real Estate Industry; one by the Alabama Office of the Department of Housing and Urban Development; one by the Office of CSP of West Alabama; one by the Alabama Home Builders Association; one by the Alabama Office of the Farmer's Home Administration; and the Chief of Community Services Division of ADECA. The committee shall elect from its members its chairman and vice chairman, and shall set its own rules of procedure to conduct its affairs and meet at the call of the chair.

BE IT FURTHER RESOLVED, That the committee shall include in its comprehensive plan all pertinent areas and facets which

impact the causes and solutions to the critical housing shortage and potential funding sources for producing affordable housing for persons on low income in Alabama, and specifically:

- a) an assessment of the status of low income housing in Alabama;
- b) the development of a plan which will be used to address the housing needs identified by the study;
- c) the identification and/or establishment of funding sources necessary to improve and produce low income housing; and
- d) the establishment of state policies on low income housing.

RESOLVED FURTHER, That upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses within and without the state for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session but they shall receive their travel expenses for all meetings attended and any travel upon the business of the committee within and without the state; the members from the private sector and the public sector members, to the extent that said members are not reimbursed from their respective federal or state agencies, shall be reimbursed for their mileage and reasonable necessary expenses incurred attending to the business of the committee and upon approval of the chairman and as provided by law. Provided, however, such expenses shall not exceed the total sum of \$5,000.00 which shall be paid from any funds appropriated to the Legislature.

BE IT FURTHER RESOLVED, That the committee shall report its findings, conclusions and recommendations in writing on or before the fifth legislative day of the 1990 Regular Session, at which time the said committee shall be forever discharged of any duties or powers and shall be dissolved.

Approved May 19, 1989

Time: 5:00 P.M.

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Act No. 89-887

H.J.R. 496—Rep. Laird

# HOUSE JOINT RESOLUTION

COMMENDING THE CLAY COUNTY EXCHANGE CLUB  
FOR OUTSTANDING ACCOMPLISHMENT.



WHEREAS, the Legislature of Alabama most heartily congratulates the Clay County Exchange Club which ranks number one in the State of Alabama in rate of growth during the period September 1988 to February 1989; and

WHEREAS, the club, which increased its membership by twenty-five percent during that time period, currently has a membership of 41 and their goal is to reach 50 members by August; and

WHEREAS, chartered in 1980 with some 17 members, the Clay County Exchange Club meets twice monthly, and participates in projects of the national organization which include child abuse prevention, the development of a freedom shrine for each school in the county, the student of the month project, and law enforcement day, among others; and

WHEREAS, the Clay County Exchange Club is indeed deserving of highest praise for the enthusiasm of its members, on the club's phenomenal rate of growth, and on their many other accomplishments in the spirit and dedication of Exchange; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Clay County Exchange Club for outstanding accomplishment; we further congratulate the club as the fastest growing Exchange Club in the State of Alabama, and direct that a copy of this resolution be presented to Bob Dunagan, president, on behalf of all the Clay County Exchangites.

Approved May 19, 1989

Time: 5:01 P.M.

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Act No. 89-888

H.J.R. 497—Rep. Payne

### HOUSE JOINT RESOLUTION

COMMENDING ERIC DANIEL GLIDEWELL OF TRUSSVILLE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, twelve-year-old Eric Daniel Glidewell of Trussville, Alabama, began playing soccer with the Trussville Soccer Association at the age of seven; and

WHEREAS, at the age of ten and dedicated to the sport, he began playing with the Hewitt Husky Soccer Association in Trussville; and

WHEREAS, in the Spring of 1989, every registered soccer player in the State of Alabama was invited to try out for the Olympic

Development Program and, from these statewide tryouts, Eric was selected as one of the 24-member Olympic Development Pool for those born after August 1, 1976; and

WHEREAS, this is the first step in a development process to lead to the United States Olympic Team and, as a member of this select pool, he will be representing Alabama in competition with teams from throughout the Southeastern United States; and

WHEREAS, Eric Glidewell is indeed to be congratulated on this outstanding honor which is the highest honor a young soccer player of his age can achieve; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and as one of the 24 best soccer players in the State, we hereby commend Eric Daniel Glidewell of Trussville, Alabama, to whom a copy of this resolution of esteem shall be presented.

Approved May 19, 1989

Time: 5:02 P.M.

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Act No. 89-889

H.J.R. 498—Rep. Hooper

### HOUSE JOINT RESOLUTION

CONGRATULATING RICHARD P. HODGES, MONTGOMERY, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Richard P. Hodges, prominent resident of Montgomery, Alabama, recently was recognized, for meritorious work, his family life and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Richard P. Hodges, a graduate of the Louisiana State University, he is a dedicated active member of Saint Peter's Catholic Church, Montgomery, Alabama; he has served in many positions in organizations and boards of his Church, and in civic and charitable organizations; he was the founding president of St. Peter's Parish Council; and he was an officer of Montgomery Catholic

High School, the Seton Haven Board of trustees and St. Margaret's Advisory Board; and Richard Hodges serves St. Peter's Parish as Eucharistic minister and choir member; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Richard P. Hodges, of Montgomery, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication in both the Church and in his community.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Richard P. Hodges, Montgomery, Alabama, by the Clerk of the House, so that he and his family may know of our high esteem and deep appreciation.

Approved May 19, 1989

Time: 5:04 P.M.

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Act No. 89-890

H.J.R. 499—Rep. Hooper

### HOUSE JOINT RESOLUTION

CONGRATULATING SARAH BAINES ROBERTSON, MONTGOMERY, ALABAMA, RECIPIENT OF THE PAPAL MEDAL OF HONOR.

WHEREAS, Sarah Baines Robertson, a life-long resident of Montgomery, Alabama, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness John Paul II, which was established in 1888 as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, Sarah B. Robertson, a member of St. Peter Catholic Church, has been active in her parish and community; she has served on the boards of many organizations, the Montgomery Deanery, and the Archdiocesan Council of Catholic Women and Eagle Forum, and St. Anne's Guild, and her life has been faith filled in service to others for the betterment of her church and civic community; and she has earned the acclaim of many for her legislative and parliamentary acumen and in her work with the Alabama Citizens for life, and she was an Alabama delegate to the Houston Conference on Women; and

WHEREAS, Sarah B. Robertson has so unselfishly given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration

for others to reach out to the needs of others and her family life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady Sarah Robertson, Montgomery, Alabama, for her outstanding achievements and particularly for her dedication to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. Sarah B. Robertson, Montgomery, Alabama, so that she and her family may know of our high esteem and warm regards.

Approved May 19, 1989

Time: 5:05 P.M.

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Act No. 89-891

H.J.R. 500—Rep. Beers

### HOUSE JOINT RESOLUTION

COMMENDING LISA MICHELLE SHANNON OF VESTAVIA HILLS, ALABAMA, FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

WHEREAS, in a desire to recognize young Alabamians of achievement and, most particularly, in the area of academics, the Legislature of Alabama notes the many outstanding accomplishments of Lisa Michelle Shannon of Vestavia Hills, Alabama; and

WHEREAS, Lisa, the daughter of Dr. and Mrs. William M. Shannon, is a National Merit Scholarship finalist with a 4.55 grade point average and a score of 1,520 on the Scholastic Aptitude Test; and

WHEREAS, in further recognition, she has been named to the Birmingham Post Herald Alabama All-State Academic Team, as a top-ten finalist, and is the recipient also of several awards in piano, debate and mathematics competitions; and

WHEREAS, Lisa, who has participated in the American/Soviet Youth Exchange program, is involved in peer tutoring, has participated in the City of Birmingham's Youth Leadership Forum and served as a junior docent with the Birmingham Museum of Art; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition

of outstanding academic achievement and leadership involvement, we hereby commend Lisa Michelle Shannon of Vestavia Hills, Alabama, whom we hold in highest personal regard and to whom a copy of this resolution shall be presented that she may know of our sincere praise and esteem, and of our warm best wishes for every continuing success and happiness in life.

Approved May 19, 1989

Time: 5:06 P.M.

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Act No. 89-892

H.J.R. 502—Rep. Butler

### HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA LEADERSHIP NETWORK AS THE FIRST SUCH ORGANIZATION IN THE SOUTH, AND DESIGNATING OCTOBER 26, 1989, AS "A-TEAM DAY" IN ALABAMA.

WHEREAS, the Alabama Association of Realtors sponsors a grassroots organization of several hundred civic and community leaders from throughout our state who come together to discuss Alabama's common strengths, urgent challenges, and the need to move our State ahead; and

WHEREAS, the A-Team or Alabama Leadership Network is the first such organization formed in the South to study and promote implementation of the Report of the Commission on the Future of the South entitled "Halfway Home and a Long Way to Go"; and

WHEREAS, the third annual conference on October 26, 1989, will feature a keynote address by former Mississippi Governor William F. Winter, chairman of that commission; and

WHEREAS, the Legislature has adopted a resolution creating a committee to study the future of Alabama, and feels that participation by Alabama's civic and community leaders is essential to help Alabama grow; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby commend the A-Team (Alabama Leadership Network) and its sponsor, the Alabama Association of Realtors, for being the first such organization in the South to study and implement key provisions of the important Commission report.

BE IT FURTHER RESOLVED, That we do hereby commend the third annual conference of the State's civic and community leaders

as a worthwhile endeavor in which to participate, and in which to join other Alabamians in a singular effort to improve our State and that in recognition thereof, we do hereby designate October 26, 1989, as "A-Team Day" in Alabama and encourage all Alabamians to recognize that we must all be partners in building a bright Alabama future.

Approved May 19, 1989

Time: 5:07 P.M.

Act No. 89-893

H.J.R. 508—Rep. Butler

### HOUSE JOINT RESOLUTION

#### COMMENDING THE PPG INDUSTRIES AND EMPLOYEES ON 20 YEARS OF ALABAMA OPERATIONS.

WHEREAS, the Alabama Legislature notes that the twentieth anniversary of operation of PPG Industries at Huntsville, Alabama, will be celebrated on May 19, 1989; and

WHEREAS, the Huntsville-based PPG Aircraft Products, which is an operation of PPG Industries, a successor to Pittsburgh Plate Glass Company and a multi-national company, is a leading producer of flat glass, industrial coatings, chemicals and fiberglass with over \$30 million in Alabama sales and 600 Alabama employees, thus, significantly contributing to economic enhancement in the Huntsville area and the State of Alabama, and the PPG Huntsville operation is recognized as the world's largest facility for aircraft transparencies; and

WHEREAS, PPG Industries' operations at five locations in Alabama contributes over \$19 million annually in payrolls alone and property taxes of over \$50,000 annually and \$200,000 annually in state income and franchise taxes, and the company made immeasurable charitable contributions through its Foundation; and

WHEREAS, the PPG Industries management at Huntsville and its employees have actively worked for improvements in the community and the state and have earned the respect and esteem of many; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do congratulate and most highly praise the PPG Industries Huntsville management and employees, as well as the parent company, for its many and notable contributions to the economy of the State of Alabama

and the Huntsville area, on this the twentieth anniversary celebration, and we wish for them every future success.

RESOLVED FURTHER, That a copy of this resolution be sent to PPG Industries so that they may know of our commendation.

Approved May 19, 1989

Time: 5:08 P.M.

Act No. 89-894

H.J.R. 509—Rep. Hooper

### HOUSE JOINT RESOLUTION

CONGRATULATING MARGARET CELESTE LANG BOSCH, MONTGOMERY, ALABAMA, RECIPIENT OF THE PAPAL MEDAL OF HONOR.

WHEREAS, Margaret Celeste Lang Bosch, a resident of Montgomery, Alabama, was a recent recipient of the prestigious "Pro Ecclesia et Pontifice" medal from His Holiness John Paul II, which was established in 1888 as a public sign of outstanding achievement and dedication to the Church and Pope; and

WHEREAS, Margaret Bosch, a member of St. Bede Catholic Parish and Eucharistic Minister, and she has been active in her church and community; she has served on numerous Church and Archdiocesan Organizations and boards; the Archdiocesan Council of Catholic Women, the Montgomery Deanery, St. Peter's and St. Bede's Parish Council, the St. Peter's Altar Society, St. Anne's Guild, St. Bede School and P.T.O., the Montgomery Exchange Auxiliary, and she has served as officer of many of these; and her expertise and financial acumen as treasurer and Montgomery Deanery Burse Club Chairman have earned the acclaim of many; and her life has been faith filled in service to others for the betterment of her church and civic community; and

WHEREAS, Margaret Bosch has so unselfishly given her talents, time and energies which have earned the high esteem of many, and her presence in our community has been an inspiration for others to reach out to the needs of others and her family life has been exemplary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Lady Margaret Bosch, Montgomery, Alabama, for her outstanding achievements and particularly for her dedication

to her church and service for the enrichment of others, which has earned her the august "Pro Ecclesia et Pontifice" medal.

RESOLVED FURTHER, That a copy of this resolution be sent to Mrs. Richard Bosch, Montgomery, Alabama, so that she and her family may know of our high esteem and deep appreciation.

Approved May 19, 1989

Time: 5:09 P.M.

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Act No. 89-895

H.J.R. 510—Rep. Hooper

### HOUSE JOINT RESOLUTION

CONGRATULATING THOMAS L. DOYLE, PH.D., MONTGOMERY, ALABAMA, KNIGHT OF THE ORDER OF SAINT GREGORY THE GREAT, CIVIL CLASS.

WHEREAS, Dr. Thomas L. Doyle, a resident of Montgomery, Alabama, and Mobile son, recently was recognized for meritorious work and zeal in service to the Catholic Church, by His Holiness John Paul II, who granted the Knighthood of Saint Gregory the Great, Civil Class to him; and

WHEREAS, Dr. Thomas L. Doyle received his doctorate in education from the University of Notre Dame, South Bend, Indiana, and his undergraduate degrees were earned at Spring Hill College, Mobile, Alabama; and

WHEREAS, this singular honor is a public sign of outstanding achievements, dedication to the Church and service to others of a high degree; and

WHEREAS, Dr. Thomas L. Doyle, is an active member of Saint Bede Parish, Montgomery, Alabama, where he is choir director; he has served in many positions in organizations and boards of his Church, including executive secretary of the Montgomery Catholic High School Board and the Montgomery District Board of Education, the Archdiocesan Board of Education; and he is the Vicar of Education for the Archdiocese of Mobile; and

WHEREAS, Dr. Thomas L. Doyle has brought great distinction to himself for his dedicated service as principal of Montgomery Catholic High School since 1972 and he will be the first president of the Montgomery Catholic High in May, 1989, and he brings his educational talents to boards throughout the Archdiocese of Mobile in lay leadership training sessions; and he has served on the State Board of Education grants committee; now therefore,



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily congratulate Sir Thomas L. Doyle, Ph.D., of Montgomery, Alabama, on the occasion of this Papal Honor and for his outstanding achievements and dedication.

RESOLVED FURTHER, That a copy of this resolution be sent to Sir Thomas L. Doyle, Ph. D., Montgomery, Alabama, by the Clerk of the House, so that he may know of our high esteem and deep appreciation.

Approved May 19, 1989

Time: 5:10 P.M.

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Act No. 89-896

H.J.R. 512—Rep. Perdue

### HOUSE JOINT RESOLUTION

COMMENDING LILLIE G. FLOOD FOR 29 YEARS OF OUTSTANDING SERVICE IN THE FIELD OF PUBLIC EDUCATION.

WHEREAS, the Legislature of Alabama notes with highest regard the retirement of Lillie G. Flood of Baker Elementary School, on June 2, 1989; and

WHEREAS, Mrs. Flood, a third grade teacher in the Birmingham Public School System for 29 years, holds the A. B. degree from Miles College, Fairfield, Alabama; and

WHEREAS, having served as a classroom teacher at Scott Elementary, Bush Elementary, and Baker Elementary, Mrs. Flood evidenced concern for her students by endeavoring to instill in each a sense of self-worth, dignity and a high level of self-confidence; she further provided a pleasant and attractive atmosphere, conducive to learning, and presented the learning process as an enjoyable and rewarding experience; and

WHEREAS, Lillie G. Flood, one of our state's most outstanding educators, also is a prominent and dedicated member of Sardis Baptist Church of Birmingham, Alabama, and serves her church through membership activities in the Smithfield Missionary Circle and Macon-Dowdell Usher Board, and she is professionally associated with the Birmingham Education Association, Alabama and National Education Associations and the PTA, to name a few; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Lillie G. Flood of Birmingham, Alabama, whom we hold in

highest regard and for whom a copy of this resolution shall be provided.

Approved May 19, 1989

Time: 5:11 P.M.

Act No. 89-897

H.J.R. 513—Rep. Perdue

### HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. GEORGE PERDUE, SR., PARENTS OF OUR ESTEEMED COLLEAGUE, REPRESENTATIVE GEORGE PERDUE, JR., ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Golden Wedding Anniversary, on August 13, 1989, of Mr. and Mrs. George Perdue, Sr., of Birmingham, Alabama, the parents of our distinguished colleague, Representative George Perdue; and

WHEREAS, in the sight of God, George Perdue, Sr., and Gladys R. Armstrong were joined in Holy Wedlock on August 13, 1939, in Birmingham, Jefferson County, Alabama, and these two fine people forsaking all others, have remained in said Holy State for the past 50 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their wedding vows, setting an example to be emulated by all others who, in marriage, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Perdue are beloved members of their community and are loyal citizens of the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with their family and friends in congratulating this exemplary couple of Birmingham, Alabama, Mr. and Mrs. George Perdue, Sr., and wish for them many more happy years together in their union so richly blessed by God.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. and Mrs. Perdue so that they may know of our congratulations, high esteem and warm best wishes for the future.

Approved May 19, 1989

Time: 5:12 P.M.

Act No. 89-898

H.J.R. 516—Rep. Clark (W)

## HOUSE JOINT RESOLUTION

COMMENDING DR. A. W. WILSON, PASTOR OF HOLT STREET BAPTIST CHURCH, MONTGOMERY, ALABAMA.

WHEREAS, the Alabama Legislature is happy to note that Dr. A. W. Wilson, a native of Thomasville, Alabama, and a resident of Montgomery, Alabama, has served for fifty years as pastor of the Holt Street Baptist Church where he has served his congregations with love and devotion; and

WHEREAS, Dr. A. W. Wilson has earned his Bachelor of Theology from The American Bible College of Chicago, Illinois, and is the recipient of honorary Doctorate degrees of Divinity from Selma University and from the Providence Theological Seminary of Los Angeles, California, and he has earned the respect of many from around this nation for his leadership abilities and masterful intellect; and

WHEREAS, Dr. Wilson gives generously of his time and talents in the service of his church and in addition to his pastorate for over 50 years he is President Emeritus of the Alabama State Baptist Convention, having served as its President for 13 years and his other ministry has included: Boards of Director, National Baptist Convention; Charter Board of Trustees, Selma University; Director of Christian Education of Alabama, and Vice President of the Alabama Baptist State Convention, to name only a few; and

WHEREAS, Dr. Wilson has been the recipient of numerous and notable honors, including the Outstanding Service Award by the Supreme Chapter of Zeta Phi Lambda Sorority, for Christian Women, Inc.; the Y.M.C.A. Award for Outstanding Leadership in Membership in 1962; Appreciation for Dedicated Service awarded by the Emancipation Proclamation Celebration Committee in 1965; Merit for Outstanding Service to Humanity by the Montgomery Improvement Association in 1970; Outstanding Service as a member of the Board of Directors of the Community Action Committee in 1970; and in 1971, Distinguished Service in the Field of Religion by the Selma University Alumni Award; and

WHEREAS, Dr. A. W. Wilson has exhibited throughout his life the admirable attributes of friendliness, devotion to duty and concern for his fellowman; and he has endeared himself to all who know him by his compassion and sensitivity to the need of those he serves; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend Dr. A. W. Wilson on the occasion of his unprecedented fiftieth anniversary as Pastor of the Holt Street Baptist Church in Montgomery, Alabama, so that he and his family may know of our high esteem, deep admiration and very best wishes for his future endeavors.

Approved May 19, 1989

Time: 5:13 P.M.

Act No. 89-899

H.J.R. 526—Rep. Flowers

### HOUSE JOINT RESOLUTION

COMMENDING KIRK PARSONS OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to recognize young Alabamians of achievement, the Alabama Legislature commends Kirk Parsons of Montgomery, Alabama, who has been selected as a representative from Montgomery Academy Junior High School to the 30th Annual Jimmy Hitchcock Memorial Award Banquet; and

WHEREAS, established in honor of the late Jimmy Hitchcock of Montgomery, the Hitchcock Award is given for outstanding Christian leadership in athletics and, through participation and recognition at the banquet, these outstanding young citizens are motivated to maintain their well-established high standards of Christian leadership; and

WHEREAS, Kirk Parsons, the son of Mr. and Mrs. Milton Parsons, is indeed to be praised as a recipient of this distinguished honor, and it is our sincere wish that this fine young man enjoy every future success and happiness in life; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we hereby commend Kirk Parsons of Montgomery, Alabama, for outstanding achievement and do further direct that he receive a copy of this resolution of highest honor and esteem.

Approved May 19, 1989

Time: 5:14 P.M.

Act No. 89-900

H.J.R. 528—Rep. Rains

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF KENNETH EARL LANDERS  
OF JACKSONVILLE, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama records the untimely death of Kenneth E. Landers of Jacksonville, Alabama, on March 10, 1989, at the age of 55 years; and

WHEREAS, a native of Colbert County and a graduate of Colbert County High School, Kenneth E. Landers received the bachelor's degree from the University of North Alabama and earned both his master's and Ph. D. degrees in botany from Auburn University; and

WHEREAS, a veteran of the United States Army who served during the Korean Conflict, Dr. Landers was a professor of biology for 23 years at Jacksonville State University and, for the past 14 years, served as head of the department; and

WHEREAS, Dr. Landers, although an amateur photographer, incorporated his hobby and talents into his career by developing his many pictures of wildflowers and wildlife into slides, and this extensive collection, one of the largest of its kind, was used in his teaching; he also collected plant specimens which were added to the Jacksonville State University Herbarium, thereby greatly enlarging and developing the University's referenced specimens; and

WHEREAS, the death of Kenneth Earl Landers has indeed left a deep void in the life of the University community and in the hearts of his beloved family, students and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Kenneth Earl Landers of Jacksonville, Alabama, and extend our very deepest sympathy to his wife, Mrs. Venelle Uptain Landers; sons, Kenneth Timothy and Joel Gregory Landers; his daughter, Letitia L. Williams; to his parents, Mr. and Mrs. Earl J. Landers; and to other family members, for whom a copy of this resolution shall be provided that they all may know of our shared sorrow in their great and inconsolable loss.

Approved May 19, 1989

Time: 5:15 P.M.

Act No. 89-901

H.J.R. 531—Rep. Rains

## HOUSE JOINT RESOLUTION

COMMENDING JASON WATTS OF MARSHALL COUNTY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, a high school student from Marshall County won third place in the first statewide Alabama Citizen Bee competition; and

WHEREAS, patterned after a “spelling bee,” the Citizen Bee competition is designed to test high school students on their knowledge of geography, American history, economics, politics, culture and current events; and

WHEREAS, Jason Watts, 18, a senior at Bay High School, won the third place prize; and

WHEREAS, an outstanding young citizen, Jason Watts will represent his high school and the State of Alabama in the forthcoming National Citizen Bee, in competition with 74 high school students from 28 other states; and

WHEREAS, Jason Watts is to be congratulated and commended for representing his community and high school with such distinction; and

WHEREAS, his parents and teachers are to be commended for encouraging and for helping him prepare for the competition; and

WHEREAS, his local newspaper, the Sand Mountain Reporter, also is to be commended as sponsor of the local competition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Jason Watts of Marshall County, Alabama, for outstanding achievement, and do further direct that copies of this resolution be sent to both Jason Watts, to his parents and to his school.

Approved May 19, 1989

Time: 5:16 P.M.

Act No. 89-902

H.J.R. 532—Rep. Rains

## HOUSE JOINT RESOLUTION

COMMENDING TRACY LYNN OF MARSHALL COUNTY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, a high school student from Marshall County won first place in the first statewide Alabama Citizen Bee competition; and

WHEREAS, patterned after a "spelling bee," the Citizen Bee competition is designed to test high school students on their knowledge of geography, American history, economics, politics, culture and current events; and

WHEREAS, Tracy Lynn, a 16-year old junior at Albertville High School, won the top prize in the competition; and

WHEREAS, an outstanding young citizen, Tracy Lynn will represent her high school and the State of Alabama in the forthcoming National Citizen Bee, in competition with 74 high school students from 28 other states; and

WHEREAS, Tracy Lynn is to be congratulated and commended for representing her community and high school with such distinction; and

WHEREAS, her parents and teachers are to be commended for encouraging and for helping her prepare for the competition; and

WHEREAS, her local newspaper, the Sand Mountain Reporter, also is to be commended as sponsor of the local competition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Tracy Lynn of Marshall County, Alabama, for outstanding achievement, and do further direct that copies of this resolution be sent to Tracy Lynn, to her parents and to her school.

Approved May 19, 1989

Time: 5:17 P.M.

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Act No. 89-903

H.J.R. 549—Reps. McDowell, White (G),  
Beers, Payne and McClain

### HOUSE JOINT RESOLUTION

DESIGNATING MAY 9, 1989, AS NATIONAL TEACHER DAY.

WHEREAS, teachers touch the lives of all of America's children and play a crucial role in their social development; and

WHEREAS, teachers motivate students to become active learners; and

WHEREAS, teachers meet challenges daily, reaching out to every student regardless of ability, interest in learning, social or economic background, handicap, race, religion, creed, or ethnic origin; and

WHEREAS, teachers offer counseling and support to students not only in their classrooms but throughout their years in school as they prepare for their careers; and

WHEREAS, America depends on successful school instructional programs that meet the needs of every child; and

WHEREAS, teachers are carrying out a major responsibility in preparing our young people to assume their role as effective citizens; and

WHEREAS, teachers contribute to the economic growth of this nation by providing students the skills that make them a viable part of the work force; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That May 9, 1989, is hereby designated National Teacher Day as a time for public recognition of teachers' contributions to the development of this community and teachers' influence on the lives of all of us.

Approved May 19, 1989

Time: 5:18 P.M.

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Act No. 89-904

H.J.R. 550—Rep. Buskey (JE)

### HOUSE JOINT RESOLUTION

COMMENDING HOWARD I. HENSON OF ATLANTA, GEORGIA.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the numerous contributions made to the citizenry of our state by Mr. Howard I. Henson of Atlanta, Georgia; and

WHEREAS, in his position as Regional Manager of the Laborers' International Union of North America, he has continuously strived toward the goal of providing all workers with dignity and economic freedom; and

WHEREAS, Mr. Henson, through his efforts to further labor relations in Alabama and the Southeastern United States has been nationally recognized as a prominent leader in the labor movement; now therefore,



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend and congratulate Mr. Howard I. Henson of Atlanta, Georgia, on behalf of the people of Alabama for his sincere dedication.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Henson as a mere token of our high esteem and warmest personal regard.

Approved May 19, 1989

Time: 5:19 P.M.

Act No. 89-905

H.J.R. 552—Rep. Spratt

### HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION, THE MERKERSON FAMILY REUNION.

WHEREAS, the Merkerson Family will be celebrating their Third Annual Family Reunion in Birmingham, Alabama, on July 20-22, 1989; and

WHEREAS, in the spirit of the Alabama Reunion, the family proudly acknowledges a rich heritage spanning five generations since the lifetime of the founding patriarch, Ethern Smith and his wife Lucie; and

WHEREAS, after obtaining freedom from the cruel bondage of slavery, Ethern Smith changed his name to Merkerson, took a wife, Lucie, relocated to Birmingham, Alabama, where they raised their sons and where a remnant of that first Merkerson family resides to date; and

WHEREAS, the family boasts a tradition of accomplishments earned through adversity to produce numerous professionals including teachers, doctors, attorneys, secretaries, dancers and other commendable contributions to enhance their families and communities; and

WHEREAS, attendance of up to 150 people is expected representing 25 heads of households coming from Alaska, Ohio, California, Michigan, Georgia, Pennsylvania, and Washington, D.C., spanning a wide cross section of America; and

WHEREAS, the purpose of this Third Merkerson Family Reunion is to acknowledge noteworthy accomplishments, gather historical information, preserve family lineage and solidify their continuity as a close-knit family unit for future generations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize with highest commendation the Third Annual Merkerson Family Reunion, and do further direct that a copy of this resolution of honor and esteem be provided for presentation on this auspicious occasion.

Approved May 19, 1989

Time: 5:20 P.M.

Act No. 89-906

H.J.R. 554—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE NAMING OF THE VINCENT L. ULMER MEMORIAL PARK BY THE BAY MINETTE CITY COUNCIL.

WHEREAS, in consensus of commendation, the Legislature of Alabama recognizes the action of the Bay Minette City Council in the naming of a park in honor of Seaman Vincent L. Ulmer, United States Navy, who was killed in action May 17, 1987, on board the USS Stark; and

WHEREAS, the dedication of Vincent L. Ulmer Memorial Park on May 27, 1989, will be an official event of the Alabama Reunion; and

WHEREAS, sponsors, in support of and participating in this event, are Bradley-McDowell V.F.W. Post 3568; the Taylor-Stuart American Legion Post 188; the White-Lee D.A.V. Chapter 53; the City of Bay Minette, Alabama; and Seaman Ulmer's friends and neighbors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby heartily commend the City Council of Bay Minette, Alabama, in the naming of the Vincent L. Ulmer Memorial Park, a fitting honor for a native son whose life was sacrificed for his country.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for each member of the City Council of Bay Minette and for the family of Vincent L. Ulmer.

Approved May 19, 1989

Time 5:21 P.M.

Act No. 89-907

H.J.R. 558—Reps. Kvalheim, Zoghby,  
Gaston, Marietta,  
Kennedy and  
Buskey (JE)

### HOUSE JOINT RESOLUTION

COMMENDING FATHER DONALD I. MACLEAN, S.J., AS  
THE NEWLY ELECTED PRESIDENT OF SPRING HILL COL-  
LEGE.

WHEREAS, on April 21, 1989, the Board of Trustees of Spring Hill College announced that Father Donald I. MacLean, S.J., has been elected the 34th President of Spring Hill College; and

WHEREAS, Father MacLean is a former President of St. Joseph University in Philadelphia who is currently serving as Vice-president for University Ministry at Loyola University of Chicago; and

WHEREAS, his distinguished career in higher education includes holding a Ph.D. in physical chemistry from The Catholic University of America; having been a teacher and administrator in Jesuit higher education and having served on the Board of Trustees of St. Louis University; and

WHEREAS, Father MacLean also has an outstanding record of public service having served as a Director of the Philadelphia Urban Coalition, the Greater Philadelphia Area Chamber of Commerce, the United Way of Southeastern Pennsylvania and the Association for Independent Colleges and the University of Pennsylvania; and

WHEREAS, his experience both as a college administrator and as a civic leader made him the overwhelming choice to lead Spring Hill College into the 21st century; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,  
BOTH HOUSES THEREOF CONCURRING, That we do hereby  
heartily commend Father Donald I. MacLean, S.J., upon being elected  
the 34th President of Spring Hill College.

RESOLVED FURTHER, that a copy of this resolution be sent  
to Father Donald I. MacLean, S.J., and to members of the Board  
of Trustees of Spring Hill College.

Approved May 19, 1989

Time: 5:22 P.M.

Act No. 89-908

H.J.R. 563—Reps. Marietta, Zoghby, Kennedy,  
Buskey (JE), Gaston, Clark (W),  
Harper, Turner and Box

## HOUSE JOINT RESOLUTION

### HONORING KEN KVALHEIM.

WHEREAS, Ken Kvalheim received a degree in finance from the University of South Alabama in 1982; and

WHEREAS, as a student, he was active in leadership in many areas of student life; and

WHEREAS, Ken's love and dedication to the University of South Alabama has led him to spend countless hours working through the alumni organization on projects to benefit the institution; and

WHEREAS, Ken Kvalheim has brought much honor and prestige to his alma mater through his service in the Alabama Legislature and other community activities; and

WHEREAS, when elected in 1982, Representative Kvalheim became the youngest Republican ever to serve in the Alabama House of Representatives; and

WHEREAS, he has served in that position continuously and with distinction since 1982; and

WHEREAS, he also has found time in his busy schedule to support his college fraternity by serving as a national officer; and

WHEREAS, Representative Kvalheim has served as the University of South Alabama Alumni Association president since June of 1988 and will soon pass the gavel of leadership; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Ken Kvalheim of Mobile, Alabama, for distinguished and honorable service to the University of South Alabama, the Mobile community and the State of Alabama.

BE IT FURTHER RESOLVED, That in token of sincere admiration and valued friendship, a copy of this resolution shall be presented to Ken Kvalheim.

Approved May 19, 1989

Time: 5:23 P.M.

Act No. 89-909

H.J.R. 564—Rep. Perdue

### HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE OUTSTANDING ACCOMPLISHMENTS OF MOREHOUSE COLLEGE.

WHEREAS, the Legislature of Alabama in highest honor and esteem, congratulates Morehouse College as the Southern Intercollegiate Athletic Conference regular season basketball champions; and

WHEREAS, the Morehouse College team set a new school basketball record with a 25-5 overall season; and

WHEREAS, Morehouse College has always been known for its high academic quality and the number of outstanding graduates it has produced; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That in recognition of outstanding achievement both as a scholastic and athletic institution, we hereby most highly commend Morehouse College.

BE IT FURTHER RESOLVED, That in token of sincere praise and esteem, a copy of this resolution shall be forwarded to Morehouse College for the purpose of appropriate display and said institution.

Approved May 19, 1989

Time: 5:25 P.M.

Act No. 89-910

H.J.R. 565—Reps. McMillan, Adams, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Davis, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hamilton, Hammett, Harper, Harvey,

Haynes, Headley, Higginbotham,  
 Hill, Hogan, Holley, Holmes,  
 Hooper, Johnson (RG),  
 Johnson (RW), Kennedy,  
 Knight, Kvalheim, Laird,  
 Layson, Lindsey, Logan,  
 Marietta, Marks, Mathis,  
 McClain, McDowell, McKee,  
 Melton, Mikell, Moon, Newman,  
 Newton (C), Newton (D), Parker,  
 Payne, Penry, Perdue, Petelos,  
 Poole, Rains, Richardson,  
 Rogers, Sanderford, Seibels,  
 Slaughter, Spratt, Starkey,  
 Thomas, Turner, Turnham,  
 Venable, Walker, Warren,  
 White (F), White (G), White (L),  
 Williams, Willis, Wright and  
 Zoghby

#### HOUSE JOINT RESOLUTION

COMMENDING A CERTAIN COLLEAGUE, IN WHOSE  
 NAME A CERTAIN ACT IS NAMED.

WHEREAS, one of our colleagues has certain characteristics in  
 common with a well-known movie personality; and

WHEREAS, both our colleague and said star of cinema are from  
 “down under,” and both have an affinity for attractive, intelligent  
 blondes of the opposite sex; and

WHEREAS, we further note that both individuals have chosen  
 to make the genus caiman and allied genera an important part of  
 their careers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,  
 BOTH HOUSES THEREOF CONCURRING, That we hereby com-  
 mend Crocodile Dundee and Gator Breedlove (the latter is our col-  
 league) for their dedication to both wildlife and the “wild life,” and  
 we do further direct that henceforth and forever hereafter, Mike  
 Breedlove shall be known as and referred to as “Gator” Breedlove—  
 not “Crock” as has been suggested.

BE IT FURTHER RESOLVED, That the Act which House Bill  
 17 becomes, relating to the establishment of farms for the BREEDing,  
 LOVing and procreation of alligators, is hereby designated as the  
 “Breedlove Alligator Act.”

BE IT FURTHER RESOLVED, That as a memento of this honorary designation of the Legislature, a copy of this resolution shall be presented to our colleague, Gator Breedlove.

Approved May 19, 1989

Time: 5:25 P.M.

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Act No. 89-911

H.J.R. 566—Reps. Knight and Hill

### HOUSE JOINT RESOLUTION

PROHIBITING THE RETIREMENT SYSTEMS OF ALABAMA FROM AUDITING FOR COMPUTING BENEFITS CERTAIN YEARS OF PRIOR SERVICE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That whenever any active and contributing member of either the teachers' retirement system or the employees' retirement system files notice of intent to retire from active service on a certain date as provided by law, the administration of the retirement systems of Alabama is hereby prohibited from auditing, for purposes of computing benefits, any of such member's creditable service as it appeared on his or her most recent statement of account, except such member's two most recent years of creditable service.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent forthwith to the administration of the retirement systems of Alabama.

Approved May 19, 1989

Time: 5:26 P.M.

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Act No. 89-912

H.J.R. 568—Rep. Bugg

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JULIUS SETH SWANN.

WHEREAS, the House of Representatives notes with a sense of deep regret the passing of the Honorable Julius Seth Swann of Gadsden, Alabama; and

WHEREAS, Mr. Swann was active in the practice of law in Etowah County with the firm of Inzer, Suttle, Swann and Stivender for over 50 years before retiring in 1979; and

WHEREAS, he is survived by his wife, Mrs. Alma Nelle Swann; three sons, John Edward Swann, Jerre Bailey Swann and Julius Seth Swann, Jr.; and daughter, Mrs. Jane Swann Kay, as well as seven grandchildren; and

WHEREAS, Julius Seth Swann reflected the uncommon endowments of foresight, perseverance, and capacity for intelligent leadership and he shall be missed keenly by his host of friends in all walks of life; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we mourn the death of Julius Seth Swann and express our deep and sincere sympathy to his widow, Mrs. Alma Nell Swann and his family to whom copies of this resolution shall be sent.

Approved May 19, 1989

Time: 5:27 P.M.

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Act No. 89-913

H. 110—Rep. White (L)

### AN ACT

To provide for the investment of the ad valorem taxes collected by the ad valorem tax officials of this State, to provide for the distribution of interest on such investments, to establish a fund out of a portion of the interest on said investments for the use of such officials, and to specify certain uses and restrictions on said fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** On and after October 1, 1988, all tax collectors, elected assistant tax collectors, revenue commissioners, license commissioners and other officials charged with assessing and/or collecting ad valorem taxes in the various counties of this State shall invest the ad valorem taxes collected by such officials in short term investments for the period of time between collection of said taxes and distribution of same as required by law. All interest earned on such investments shall be paid into the county general fund for use as determined by the county governing body, except that ten percent (10%) of said interest earned on such investments shall be maintained by the county treasurer in separate funds designated as the special fund of the tax assessor, tax collector, and if elected the assistant tax assessor or assistant tax collector, and the revenue commissioner, license commissioner, or such other official charged with assessing and/or collecting ad valorem taxes by whatever designation, as the case may be; however, any such official who is under a civil service system shall not be entitled to such fund. Such special funds shall not accumulate in excess of \$10,000 during any ad valorem tax year.



**Section 2.** The special funds herein established shall be used and expended by the officials for which the funds are established by such officials requisitioning expenditures from the fund for the payment of any and all reasonable and necessary expenses incurred in carrying out their official duties, including but not necessarily limited to the following: official educational expenses for such officials and/or their employees; provided, that such funds may not be expended for the usual and ordinary expenses of operating such officials' office otherwise required by law to be furnished by the county governing body.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor or by its otherwise becoming a law.

Approved May 19, 1989

Time: 5:28 P.M.

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Act No. 89-914

H. 365—Rep. Hooper

### AN ACT

To provide for the exemption of certain property from any and all ad valorem taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All property described in Title 12 U.S.C. §1701(Q), commonly known as HUD 202 property, is hereby exempt from any and all ad valorem taxes.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:29 P.M.

Act No. 89-915

H. 244—Rep. Hooper

## AN ACT

To provide for the reopening of the employees' retirement system for certain active members who had employment with the Alabama legislature prior to 1979.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any active and contributing member of the employees' retirement system who has vested retirement benefits may hereby claim and purchase credit in the employees' retirement system for up to four years' time for employment by the Alabama legislature prior to 1979, provided, that such member shall pay into the employees' retirement system the total amount he would have contributed had he been allowed to contribute at the position and salary level, together with interest not to exceed eight percent compounded annually from the date of service to the date of payment, and provided that he shall make such payment within one year from the effective date of this act.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:30 P.M.

Act No. 89-916

H. 491—Rep. Campbell

## AN ACT

Relating to gas and oil; amending Section 9-17-13 of the Code of Alabama 1975, so as to provide further for the integration, pooling, cycling, repressuring, pressure maintenance or secondary recovery on gas and oil wells.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-17-13 of the Code of Alabama 1975, is hereby amended to read as follows:

“§9-17-13.

“(a) When any mineral or other related interests deriving from two or more separately owned tracts of land are embraced within an established or a proposed drilling or production unit, or when there are separately owned interests in all or a part of an established or

proposed drilling or production unit, or any combination of such, the persons owning such interests therein may validly agree to integrate or pool such interests and to develop such interests and associated lands as a drilling or production unit. Where, however, such owners have not agreed to so integrate or pool such interests, the board shall, for the prevention of waste or to avoid the drilling of unnecessary wells, require such persons owning such interests to do so and to develop their interests and the associated lands as a drilling or production unit.

“(b) The board, in order to prevent waste and avoid the drilling of unnecessary wells, may permit or require the cycling of gas in any pool or portion thereof and is also authorized to permit or require the introduction of gas or other substance into an oil or gas reservoir for the purpose of repressuring such reservoir, maintaining pressure or carrying on secondary recovery operations. The board may require pooling or integration of all the interests in or associated with such tracts, when reasonably necessary in connection with cycling operations.

“(c) All orders requiring integration, pooling, cycling, repressuring, pressure maintenance or secondary recovery operations shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable and which will afford to the person owning each such interest associated with each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense and will prevent or minimize reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage. The portion of the production allocated to each tract or interest included in an integrated or pooled unit formed by an integration or pooling order shall, when produced, be considered as if it had been produced from such tract or interest by a well drilled thereon; and any operations conducted within or with respect to such pooled or integrated unit pursuant to the pooling or integration order shall be deemed for all purposes to be the conduct of operations for the production of oil or gas or both from each tract or interest within said unit. All orders requiring pooling or integration shall, among other things, provide:

“(i) That the actual and reasonable costs of developing and operating the pooled integrated unit (including a reasonable charge for supervision) and, if applicable, a risk compensation fee (as hereinafter provided) shall be charged to the separately owned tracts or interests in the unit in the same proportion that such tracts or interests share in production from the unit;

“(ii) That such costs and fee (if any) chargeable to a tract or interest shall be paid by the person or persons not entitled to share in production free of development and operating costs and who, in

the absence of the pooling or integration order, would be responsible for the expense of developing and operating such tract or interest and that such person's or persons' interest in the separately owned tract or interest shall be primarily responsible therefor;

“(iii) That, if any nonconsenting owner shall fail or refuse to pay the costs and/or fee (if any) chargeable to his tract or interest, such costs and/or fee shall be recoverable solely out of the production allocable to such tract or interest, provided, however, that this limitation shall not apply to a nonconsenting owner who has furnished the operator with a notarized statement agreeing to pay his proportionate share of the drilling and completion costs for a unit well as hereinafter provided;

“(iv) That, when the full amount of any charge made against a separately owned tract or interest is not paid when due by the person or persons primarily responsible therefor, as provided above, then 13/16ths (or if said tract or interest is leased, the working interest fraction or percent if it is greater) of the oil and gas production allocated to such separately owned tract or interest may be appropriated by the operator and marketed and sold for the payment of such charge, but that a 3/16ths part (or the actual landowner royalty if it is less) of the unit production allocated to each separately owned tract or interest shall in all events be regarded as royalty and shall, if there be no reasonable question as to good and merchantable title, be distributed to and among, or the proceeds thereof paid to, the person or persons owning royalty or unleased mineral interests (as the case may be) in such tract or interest free and clear of the development and operating costs and of any risk compensation fee and free and clear of any lien for the payment of such costs and fee; and

“(v) That any person owning any overriding royalty, oil and gas payment, royalty in excess of 3/16ths of production, or other interests, who is not primarily responsible for payment of the development and operating costs or risk compensation fee (if any), shall, to the extent of any payment or deduction therefor from his share, be subrogated to all the rights of the operator with respect to the interest or interests primarily responsible for such payment.

“Additionally, if the operator, or the operator together with the consenting owners, shall own a majority in interest of the drilling and operating rights in the integrated or pooled unit, and the operator has made a good faith effort to (i) negotiate with each nonconsenting owner to have said owner's interest voluntarily integrated or pooled into the unit, (ii) notify each nonconsenting owner of record of the names of all owners of drilling rights who have agreed to integrate or pool any interests in the unit, (iii) ascertain the address of each nonconsenting owner (iv) give each nonconsenting owner written

notice of the proposed operation, specifying the work to be performed, the proposed location, proposed depth, objective formation and the estimated cost of the proposed operation, and (v) to offer each nonconsenting owner the opportunity to lease or farm out on reasonable terms or participate in the cost and risk of developing and operating the unit well involved on reasonable terms, then the pooling or integration order shall, if the operator so requests, also provide that, if any nonconsenting owner (a) does not pay his proportionate share of the drilling and completion costs of any unit well within 30 days after commencement of actual drilling operations, or prior to reaching total depth, whichever is earlier, or at such other time as may be contracted between the parties, or, alternatively, (b) does not, on or before commencement of actual drilling operations, provide the operator with a notarized statement agreeing to pay such costs, then there shall be charged to the tract or interest of such nonconsenting owner a risk compensation fee equal to 150% of such tract's or interest's share of the actual and reasonable costs of drilling, reworking (prior to initial commercial production), testing, plugging back, deepening (but not below that depth specified in the permit for the well), and completing (through the wellhead) said well; provided, however, that no risk compensation fee shall be chargeable against the tract or interest of any nonconsenting owner who owned of record a tract or interest in the unit prior to the time notice was given unless, at the pooling or integration hearing, it is shown, by a United States mail certified mail return receipt card or by other evidence deemed sufficient by the board, that such nonconsenting owner was given actual notice of said pooling or integration hearing and unless it is also shown that the notice given to such owner specifically stated that the operator was requesting that the board impose a risk compensation fee in accordance with the provisions of this section. In the event that a nonconsenting owner who has provided the operator with a notarized statement agreeing to pay his proportionate share of the drilling and completion costs for a unit well does not fully pay such costs within 30 days after commencement of actual drilling operations or prior to reaching total depth, whichever is earlier, or on or before such other time as may be contracted between the parties, then any unpaid balance of such costs shall bear interest at the rate of 1 1/2% per month, and such nonconsenting owner shall be personally liable for such unpaid balance together with interest thereon and also for any attorney's fees, court costs, or other expenses incurred by the operator in attempting to collect such unpaid balance and interest thereon; and, additionally, the operator shall have the right, if the well is a producer, to appropriate, market, and sell such nonconsenting owner's share of production for the payment of the amounts due by such owner. The value of any production appropriated by the operator under the authority of any integration or pooling order shall be calculated at

the market price in the field (after deduction for taxes and for cleansing, transportation, compression, and processing costs) at the time such production is received by the operator or placed to his credit. In the event of any dispute relative to any costs or risk compensation fee charged to any tract or interest, the board shall determine the proper charge, after notice and hearing. Unless the pooling or integration order (or an amendment thereto) shall specify otherwise or unless the affected parties shall agree otherwise, production from any pooled or integrated unit formed by a pooling or integration order shall be allocated to each separately owned tract or interest in the unit in the proportion that the acreage of each such tract or interest bears to the total acreage of the unit; and under such circumstances allocation of production on this basis shall be considered as a just and reasonable allocation which will afford to each person owning each tract or interest within such unit the opportunity to recover or receive his just and equitable share of the oil and gas produced from the unit. Nothing herein or in any order issued pursuant hereto shall be construed to subject any nonconsenting owner who is subject to a risk compensation fee, as hereinabove provided, to any personal liability for any damages caused by or resulting from any negligent act or other tort committed by the operator or by any consenting owner in the course of developing and operating a pooled or integrated unit; nor shall anything herein or in any order issued pursuant hereto prevent the operator and any other owner or owners in the unit from entering into any agreement that contains provisions respecting the pooling, integration, or development of their tracts or interests in the pooled or integrated unit that differ from the above provisions or from the provisions contained in any pooling or integration order. As used herein, the term 'operator' shall mean the person designated by the Board to be in charge of developing and operating a drilling or production unit; the term 'nonconsenting owner' shall mean an owner who owns a tract or interest in a drilling or production unit and who has not, on or before the date a pooling or integration order is entered with respect to such unit, reached an agreement with the operator relative to the terms and conditions which will govern the manner in which his said tract or interest shall be developed and operated; the term 'consenting owner' shall mean an owner who has so reached such an agreement with the operator; the term 'owner' shall mean a person who, if a pooling or integration order had not been entered, would be an owner as that term is defined elsewhere in this Article; the terms 'costs of developing' and 'development costs' shall include, among other things, the costs of drilling, equipping, reworking, testing, plugging back, deepening, and completing the initial unit well and any subsequent unit well but shall not include any costs incurred in connection with the acquisition of any oil and gas leases covering

tracts or interests in the unit; and the term 'actual and reasonable costs' means actual expenditures not in excess of what are reasonable.

"(d) Should the owners of separate tracts or interests embraced within a drilling or production unit fail to agree upon the integration or pooling of the tracts or interests associated with such tracts and the drilling of a well on such unit, and should it be established that the board is without authority to require integration or pooling as provided for in this section, then subject to all other applicable provisions of this article, the owner of the interest or interests associated with each tract embraced within such drilling or production unit may drill on his tract; but the allowable production from such tract or interest shall be such proportion of the allowable production for the full drilling or production unit as the area of such separately owned tract associated with the separately owned interest, bears to the full drilling or production unit.

"(e) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate interests in the same oil or gas pool, or in any area that appears from geological or other data to be underlain by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein of the pool or area or any part thereof as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the board, are hereby authorized and shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies or contracts and combinations in restraint of trade."

(f) This section shall apply only to unitization of interests within a drilling unit and shall not apply to field or pool units as may be authorized and governed under the provisions of article 3 of this chapter.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:31 P.M.

Johnson (RG), Mathis, Layson,  
Warren, Cosby, Breedlove,  
Flowers, Harvey, Burke, Headley,  
Marks, Carter, Davis, McDowell,  
McClain, Drake, Coburn, Bugg,  
Bowling, Newman, Moon,  
Goodwin, Dillard, Hill, Knight,  
Curry, Parker, Blakeney, Bryant  
and Black

## AN ACT

To amend Section 32-6-270, Code of Alabama 1975, which defines the term "fire fighter" for purposes of issuing distinctive license plates, so as to include retired fire fighters within said definition.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-6-270, Code of Alabama 1975, is hereby amended to read as follows:

"§32-6-270.

(a) "As used in this division, unless the context clearly requires a different meaning: 'Fire fighter' means a current member or members of, or a retired member or members from, a paid, part-paid or volunteer fire department of a city, town, county or other subdivision of the state or of a public corporation organized for the purpose of providing water, water systems, fire protection services or fire protection facilities in the state; and such words shall include the chief, assistant chief, wardens, engineers, captains, firemen and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action."

(b) As used in this division, the term "retired volunteer firefighter" means someone that has retired from performing the required duties of a firefighter on a voluntary basis at a certified volunteer fire department, wherein, those duties were performed for at least 10 years and said person has attained the age of 55 years old.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:32 P.M.



Act No. 89-918

H. 1004—Rep. Turnham

## AN ACT

To amend Sections 32-8-2, 32-8-30, and 32-8-31, Code of Alabama 1975, relating to the Uniform Certificate of Title and Antitheft Act to alphabetized terms being defined; to define "mobile homes" and "travel trailers"; to provide for the titling of certain mobile homes and travel trailers; and to provide for the exemption from titling certain mobile homes and travel trailers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-8-2, Code of Alabama 1975, is hereby amended to read as follows:

"§32-8-2.

"For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **CURRENT ADDRESS.** A new address different from the address shown on the application or on the certificate of title. The owner shall within 30 days after his address is changed from that shown on the application or on the certificate of title notify the department of the change of address in the manner prescribed by the department.

(2) **DEALER.** A person licensed as an automobile or motor vehicle dealer, mobile home dealer, or travel trailer dealer and engaged regularly in the business of buying, selling or exchanging motor vehicles, trailers, semitrailers, trucks, tractors or other character of commercial or industrial motor vehicles, mobile homes or travel trailers in this state, and having in this state an established place of business.

(3) **DEPARTMENT.** The department of revenue of this state.

(4) **DESIGNATED AGENT.** Each judge of probate, commissioner of licenses, director of revenue or other county official in this state authorized and required by law to issue motor vehicle license tags, who may perform his duties under this chapter personally or through his deputies, or such other persons, as the department may designate; the term shall also mean those "dealers" as herein defined who are appointed by the department as herein provided in section 32-8-34 to perform the duties of "designated agent" for the purposes of this chapter; such "dealers" may perform their duties under this chapter either personally or through any of their officers or employees.

(5) **IMPLEMENT OF HUSBANDRY.** Every vehicle designed and adapted exclusively for agricultural, horticultural or livestock

raising operations or for lifting or carrying an implement of husbandry and in either case not subject to licensing or registration if used upon the highways.

(6) LIEN. Every kind of written lease which is substantially equivalent to an installment sale or which provides for a right of purchase, conditional sale, reservation of title, deed of trust, chattel mortgage, trust receipt, and every written agreement or instrument of whatever kind or character whereby an interest other than absolute title is sought to be held or given on a motor vehicle.

(7) LIENHOLDER. Any person, firm, copartnership, association or corporation holding a lien as herein defined on a motor vehicle.

(8) MANUFACTURER. Any person regularly engaged in the business of manufacturing, constructing, assembling, importing or distributing new motor vehicles, either within or without this state.

(9) MOBILE HOME. A structure, transportable in one (1) or more sections, and which is built on a permanent chassis, and not designed normally to be drawn or pulled on the highway except to change permanent locations, but is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems, if any contained therein. It may be used as a place of residence, business, profession, trade or for any other purpose, by the owner, lessee, or assigns and may consist of one or more units that can be attached or jointed together.

(10) MOTOR VEHICLE. Such term shall include:

a. Every automobile, motorcycle, mobile trailer, semitrailer, truck, truck tractor, trailer and other device which is self-propelled or drawn, in, upon or by which any person or property is or may be transported or drawn upon a public highway except such as is moved by animal power or used exclusively upon stationary rails or tracks;

b. Every mobile home, trailer coach, travel trailer and house trailer manufactured upon a chassis or undercarriage as an integral part thereof drawn by a self-propelled vehicle.

(11) NEW VEHICLE. A motor vehicle that has never been the subject of a first sale for use.

(12) NONRESIDENT. Every person who is not a resident of this state.

(13) OWNER. A person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended

as security. Under any lease-purchaser or installment sales agreement where a governmental agency, either city, county or state, is the lessee or purchaser with a security interest or right to purchase, such lessee or purchaser shall be the owner for purposes of this chapter.

(14) **PERSON.** Such term shall include every natural person, firm, copartnership, association or corporation.

(15) **POLE TRAILER.** Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as logs, poles, pipes, boats or structural members capable generally of sustaining themselves as beams between the supporting connections.

(16) **SCRAP METAL PROCESSOR.** Any person, firm, or corporation engaged in the business of buying scrap vehicles, automotive parts, or other metallic waste by weight to process such material into scrap metal for remelting purposes, who utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

(17) **SCRAP VEHICLE.** Any vehicle which has been crushed or flattened by mechanical means or which has been otherwise damaged to the extent that it cannot economically be repaired or made roadworthy.

(18) **SECURITY AGREEMENT.** A written agreement which reserves or creates a security interest.

(19) **SECURITY INTEREST.** An interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

(20) **SPECIAL MOBILE EQUIPMENT.** Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over the highway, including but not limited to: ditch-digging apparatus; well-boring apparatus; road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes; and earth-moving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels or other vehicles

designed for the transportation of persons or property to which machinery has been attached.

(21) **STATE.** A state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

(22) **TRAVEL TRAILER.** A vehicle without motive power, designed and constructed as a camping vehicle or a temporary dwelling, living or sleeping place and designed to be drawn or pulled on the highway, but not including folding or collapsible camping trailers and mobile homes as defined herein.

(23) **USED VEHICLE.** A motor vehicle that has been the subject of a first sale for use, whether within this state or elsewhere.

(24) **VEHICLE IDENTIFICATION NUMBER.** The numbers and letters on a motor vehicle designated by the manufacturer or assigned by the department for the purpose of identifying the motor vehicle."

**Section 2.** Section 32-8-30, Code of Alabama 1975, is hereby amended to read as follows:

"§32-8-30.

"(a) Except as provided in section 32-8-31, every owner of a motor vehicle designated a 1975 year model, and all models subsequent thereto which is in this state and which is required to be registered under the motor vehicle laws of this state and for which no certificate of title has been issued by the department, shall make application to a designated agent as herein defined for a certificate of title to the vehicle.

"(b) Except as provided in section 32-8-31, every owner of a mobile home designated a 1990 year model, and all models subsequent thereto which is in this state and for which no certificate of title has been issued by the department, shall make application to a designated agent as herein defined for a certificate of title to the mobile home, or to each unit thereof if the mobile home consists of more than one unit.

"(c) If a mobile home is affixed to a parcel of real property and the ownership of mobile home and real property is identical, the owner or owners may obtain from the Alabama Department of Revenue a cancellation of title to the mobile home by delivering to the department, the following:

(1) The certificate of title to the mobile home, or each separate certificate of title if the mobile home consist of more than one unit;

(2) A certified copy of the deed or other instruments of conveyance to the realty to which the mobile home has become affixed;

(3) An affidavit executed by all who have an ownership interest in the mobile home and the realty to which the mobile home has become affixed to the effect that the mobile home is affixed to the realty described in the deed;

(4) Lien release from lienholder as recorded on the face of the certificate of title.

If a mobile home for which the certificate of title has been cancelled as provided in this subsection is subsequently detached from the realty to which it became affixed, the owner or owners must reapply for a new certificate of title, provide an abstract of land title showing ownership of the mobile home and realty and any changes, if any, since the previous cancellation of the certificate of title, and pay the required fee specified in Section 32-8-6, Code of Alabama 1975, for the mobile home, or if in more than one section, for each component unit.

(d) Except as provided in section 32-8-31, every owner of a travel trailer designated a 1990 year model, and all models subsequent thereto which is in this state and which is required to be registered under the motor vehicle laws of this state and for which no certificate of title has been issued by the department, shall make application to a designated agent as herein defined for a certificate of title to the travel trailer.

(e) Any dealer, acting for himself or another, who sells, trades or otherwise transfers any vehicle required to be titled under this chapter who does not comply with the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not exceeding \$500.00."

**Section 3.** Section 32-8-31, Code of Alabama 1975, is hereby amended to read as follows:

"§32-8-31.

"No certificate of title need be obtained for:

(1) A vehicle owned by the United States or any agency thereof;

(2) A vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing;

(3) A vehicle owned by a nonresident of this state and not required by law to be registered in this state;

(4) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;

- (5) A vehicle moved solely by animal power;
- (6) An implement of husbandry;
- (7) Special mobile equipment;
- (8) A pole trailer;
- (9) Mobile homes, travel trailers, and mobile trailers designated 1989 year models and prior year models."

**Section 4.** There is hereby appropriated and allocated to the Alabama manufactured housing commission fund in the state treasury for the 1989-1990 fiscal year, five dollars (\$5.00) from each mobile home title fee collected pursuant to the provisions of Section 2 of this act.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:33 P.M.

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Act No. 89-919

H. 333—Rep. Johnson (RG)

### AN ACT

To amend Section 36-30-2 of the Code of Alabama 1975, as amended, so as to increase the amount of the death benefit paid to survivors of peace officers and firemen killed on duty.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-30-2 of the Code of Alabama 1975, as amended, is hereby further amended to read as follows:

"§36-30-2.

"In the event a peace officer, or a fireman, or a volunteer fireman, who is a member of an organized volunteer fire department registered with the Alabama forestry commission, is killed, either accidentally or deliberately, or dies as a result of injuries received while engaged

in the performance of his duties, his dependents shall be entitled to compensation in the amount of \$50,000.00 to be paid from the state treasury as provided in section 36-30-3, unless such death was caused by willful misconduct of the officer or was due to his own intoxication or his willful failure or refusal to use safety appliances provided by his employer or his willful refusal or neglect to perform a statutory duty or any other willful violation of a law or his willful breach of a reasonable rule or regulation governing the performance of his duties or his employment of which rule or regulation he had knowledge. Any peace officer, or any fireman, or volunteer fireman whose death results proximately and within 10 years from an injury received while performing his duties shall, for the purposes of this article, be deemed to have been killed while in the performance of such duties. If the state health officer determines from all available evidence that a volunteer fireman, who is a member of an organized volunteer fire department registered with the Alabama forestry commission, has become totally disabled as a result of any injury such fireman received while engaged in the performance of his fire-fighting duties and said disability is likely to continue for more than 12 months from the date the injury is incurred, then such fireman shall be entitled to receive disability compensation in the amount of \$50,000.00 to be paid from the state treasury as provided in section 36-30-3. The term total disability shall be interpreted to mean that the injured party is medically disabled to the extent that he cannot perform the duties of the job occupation or profession in which he was engaging at the time the injury was sustained. The state health officer may seek the assistance of any state agency in making the determination of disability and said state agencies shall cooperate with the state health officer in such regard. The state health officer shall render a decision within 30 days of the time a claim is filed. If such volunteer fireman disagrees with any officer, he may appeal such determination to the state board of adjustment in accordance with such board's procedures for such appeals."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:34 P.M.

Act No. 89-920

H. 1005—Rep. Turnham

### AN ACT

To amend Sections 40-23-2 and 40-23-61 of the Code of Alabama 1975 so as to provide for the taxation of materials and supplies used for mobile home set-up at the rate of 2%.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-2 of the Code of Alabama 1975 is hereby amended as follows:

“40-23-2.

“There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(1) Upon every person, firm, or corporation, (including the state of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within this state, in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft of over 50 tons burden), an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

“Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

“(2) Upon every person, firm or corporation engaged or continuing within this state in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic



contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution, or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the state of Alabama, an amount equal to four percent of the gross receipts of any such business.

“(3) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of such machines; provided, that the term “machines,” as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(4) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to two percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subdivision withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of \$5.00 per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be of such withdrawal and shall run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

"Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that will be registered or titled outside Alabama, that are exported or removed from Alabama within 72 hours by the purchaser or his agent for first use outside Alabama are not subject to the Alabama sales tax. Sales of other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation outside Alabama. In order for the sale to be exempt from Alabama tax, the information relative to the exempt sale must be documented on forms approved by the Revenue Department.

Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75% of the total tax generated by this paragraph (4) shall be deposited to the credit of the Alabama special educational trust fund; and \$.005, or 25% of the total tax generated by this paragraph (4) shall be deposited to the credit of the State General Fund.

"(5) Upon every person, firm or corporation engaged or continuing within this state in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to three percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of such business.

**Section 2.** Section 40-23-61 of the Code of Alabama 1975, is hereby amended to read as follows:

"§40-23-61.

"(a) An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property, not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden, purchased at retail on or after October 1, 1965, for storage, use or other consumption in this state at the rate of four percent of the sales price of such property or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue's suggested use tax brackets and his records prove that

his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected, whichever is less, except as provided in subsections (b) and (c) of this section.

“(b) An excise tax is hereby imposed on the storage, use or other consumption in this state of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, purchased at retail on or after October 1, 1965, at the rate of one and one-half percent of the sales price of any such machine or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue’s suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected, whichever is less; provided, that the term “machine,” as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(c) An excise tax is hereby imposed on the storage, use or other consumption in this state of any automotive vehicle or truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto, purchased at retail on or after October 1, 1965, for storage, use or other consumption in this state at the rate of two percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies as specified above, or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue’s suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected, whichever is less. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75% of the total tax generated by this paragraph (c) shall be deposited to the credit of the Alabama special educational trust fund; and \$.005, or 25% of the total tax generated by this paragraph (c) shall be deposited to the credit of the State General Fund.

“(d) Every person storing, using or otherwise consuming in this state tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this state; provided, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the department, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall for the purpose of this article be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with the provisions of section 40-23-67, shall be sufficient to relieve the purchaser from further liability for tax to which such receipt may refer.

“(e) An excise tax is hereby imposed on the classes of tangible personal property, and at the rates imposed on such classes, specified in subsections (a), (b) and (c) of this section, on the storage, use or other consumption in the performance of a contract in this state of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in this state, whichever is less; provided, that the tax imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b) or (c) of this section apply.”

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** The provisions of this Act are supplemental. It shall be construed in *pari materia* with other laws regulating exemption from taxation; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:35 P.M.

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Act No. 89-921

S.J.R. 41—Senator Bedford

### SENATE JOINT RESOLUTION

COMMENDING FAYETTE COUNTY DEPUTY SHERIFF  
HAROLD PENDLEY FOR DISTINGUISHED PERFORMANCE  
OF DUTY.

WHEREAS, the Legislature of Alabama notes with highest honor and esteem the lifesaving actions of Fayette County Deputy Sheriff Harold Pendley on October 3, 1986; and

WHEREAS, it was on that date that Deputy Pendley and his partner were called to the scene of a shooting incident in the Berry High School parking lot that had left a young woman critically wounded and on the point of death; and

WHEREAS, upon arriving at the scene, Deputies Pendley and Joe Stough rushed immediately to the victim's aid, administering the necessary emergency treatment that was to save her life; and

WHEREAS, gravely wounded by two shotgun blasts to the face, and from point blank range, the victim was literally choking on her own blood; by applying pressure bandages to her wounds, however, and inserting an airway to clear her throat, officers Pendley and Stough managed to keep the victim alive until the ambulance arrived and she was transported to the hospital; and

WHEREAS, Deputy Harold Pendley and his partner are deserving indeed of highest praise and honor, both for their willingness to "become involved" and for reacting to the emergency at hand with a calm and confidence that was entirely in keeping with their professionalism as exemplary officers of the law, and in a manner that attests to their training as certified EMTs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding performance of duty and for his lifesaving actions on October 3, 1986, we hereby commend Fayette County Deputy Sheriff Harold Pendley, whom we hold in highest esteem and for whom a copy of this resolution shall be provided.

Approved May 19, 1989

Time: 5:36 P.M.

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Act No. 89-922

S.J.R. 173—Senator Sanders

### SENATE JOINT RESOLUTION

COMMENDING MS. LAVERNE O'REAR OF LOWNDES COUNTY, ALABAMA.

WHEREAS, it is with a sense of great personal pride that the Legislature of Alabama notes that Ms. LaVerne O'Rear of Lowndes County was honored on February 24, 1989, by the State of Alabama Council for Exceptional Children at their annual conference; and

WHEREAS, Ms. O'Rear was awarded The Alpha Brown Award, the most prestigious award given to the individual chosen as the most outstanding special education educator of the year; and

WHEREAS, during the twenty-three years that Ms. O'Rear has been employed in Lowndes County, she has spent much of her time and effort defending the rights of exceptional children and young people; and

WHEREAS, Ms. O'Rear's first concern is for the individual needs of her students and her total efforts are dedicated to their growth and maturation through knowledge; and

WHEREAS, Ms. O'Rear is indeed a thoroughly knowledgeable professional whose credentials are exemplary, and she has continued to strengthen her qualifications through participation in a number of seminars, workshops, and other advanced training sessions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deep appreciation, we most heartily commend and congratulate Ms. LaVerne O'Rear of Lowndes County on her well-deserved honor and direct that a copy of this resolution be provided for her as a mere token of our high esteem and warmest personal regard.

Approved May 19, 1989

Time: 5:37 P.M.

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Act No. 89-923

S.J.R. 222—Senators Manley and Bedsole

### SENATE JOINT RESOLUTION

COMMENDING THE WASHINGTON COUNTY HISTORICAL SOCIETY FOR THEIR LEADERSHIP IN PRESERVING THE HISTORY AND HERITAGE OF WASHINGTON COUNTY.

WHEREAS, the Washington County Historical Society has, for many years, provided the leadership in the county for the identification, protection and preservation of the history of the county; and

WHEREAS, the Society has taken the leadership to preserve the St. Stephens historical site which is the site of the first capitol of the State of Alabama and was instrumental in enacting the legislation to create the St. Stephens Historical Commission; and

WHEREAS, the Society was responsible for compiling, editing and publishing the first History of Washington County, a book

cherished by all Washington countians, and of which all volumes have been sold; and

WHEREAS, the Society has recently given the leadership to the editing and publishing of The History of Washington County, First County in Alabama, Volume II, which has just been made available for purchase and furthers the Society's never ending goal for preservation of the history of Alabama's first county; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate and thank the Washington County Historical Society for its dedication and leadership in preserving and protecting the history of Washington County and for its valuable contribution to the history of the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the Washington County Historical Society.

Approved May 19, 1989

Time: 5:38 P.M.

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Act No. 89-924

S.J.R. 223—Senator Parsons

### SENATE JOINT RESOLUTION

EXPRESSING THE SENSE OF THE LEGISLATURE REGARDING THE RESTORATION OF EASTERN AIRLINES TO FULL OPERATIONS.

WHEREAS, the operations of Eastern Airlines have been substantially shut down since March 4, 1989, by a strike by the International Association of Machinists with the support of the pilots and flight attendants unions; and

WHEREAS, Eastern Airlines filed a petition under Chapter 11 of the United States Bankruptcy Code on March 9, 1989; and

WHEREAS, Texas Air Corporation, which controls Eastern Airlines, has negotiated for the sale of Eastern; and

WHEREAS, the organized employees of Eastern have agreed to provide the new owner with wage and work rule concessions totalling more than \$200 million annually for five years in return for a 30% equity share in the new company; and

WHEREAS, the sale agreement has expired for failure of the parties to agree on the management of Eastern during the period of its reorganization under Chapter 11; and

WHEREAS, the Bankruptcy Court has the power to appoint an independent trustee to manage Eastern's return to operation during the reorganization period, leading up to the consummation of the sale agreement and transfer of control to the new owner; and

WHEREAS, the return of Eastern Airlines to full operation is in the public interest and in the best interest of the creditors, employees, and customers of Eastern as well as the economies of the communities, states and regions of the country that Eastern serves; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is the sense of this body that the Bankruptcy Court exercise its power under the Bankruptcy Code to appoint an independent trustee in the interests of the creditors and all other appropriate constituencies of the estate, and to further the substantial public interest in the prompt and safe restoration of Eastern Airlines to full operations with its corps of experienced, dedicated and professional employees.

Approved May 19, 1989

Time: 5:39 P.M.

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Act No. 89-925

S.J.R. 225—Senator Preuitt

### SENATE JOINT RESOLUTION

NAMING THE STUDENT CENTER AT THE ALABAMA INSTITUTE FOR DEAF AND BLIND, THE "JOHN A. TEAGUE STUDENT CENTER."

WHEREAS, former State Senator John A. Teague of Childersburg served two years in the Alabama House of Representatives, three terms in the Senate, and as President Pro-Tempore of the Senate for the 1982-1986 quadrennium; and

WHEREAS, throughout his distinguished legislative tenure, John Teague served the State of Alabama honorably and well, and his selection as Most Effective Senator in 1982 speaks eloquently of his endless labor as a dedicated public servant working tirelessly for the good of district and state, and to the betterment of all citizens thereof; and

WHEREAS, a matter of special interest to Senator Teague is the Alabama Institute for Deaf and Blind which was chartered for the education of the sensory impaired and, in continuous legislative



leadership and support for the school and its students, John Teague was one of the Institute's most vigorous champions; and

WHEREAS, in recognition of John Teague's service to the state and to the Alabama Institute for Deaf and Blind, it is both fitting and desirable that his contributions be honored in an appropriate and lasting manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the student center at the Alabama Institute for Deaf and Blind, located on the campus of the Alabama School for the Deaf, the "John A. Teague Student Center," and do further authorize that appropriate signs and markers be erected and maintained so designating said structure.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Alabama Institute for Deaf and Blind, and that a copy also be presented to Senator Teague as a memento of this honorary designation of the Legislature.

Approved May 19, 1989

Time: 5:40 P.M.

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Act No. 89-926

S.J.R. 237—Senator Corbett

## SENATE JOINT RESOLUTION

CREATING A SENATE INTERIM COMMITTEE ON SENATE RULES.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That there is hereby created a Senate interim committee to study the rules of the Senate. The committee shall be composed of ten members of the Senate, to be appointed by the presiding officer of the Senate. The Secretary and the Assistant Secretary of the Senate shall serve in advisory capacities. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee.

Upon the request of the chairman, the Secretary of the Senate shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the Senate not later than the 5th legislative day of the 1990 Regular Session. Each member of the committee shall be entitled to his regular legislative compensation, his per diem

and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed \$5,000.00.

Approved May 19, 1989

Time: 5:41 P.M.

Act No. 89-927

S.J.R. 240—Senators Mitchem, Corbett, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Campbell, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hale, Hand, Hilliard, Holmes, Horn, Langford, Manley, Parsons, Preuitt, Rice, Sanders, Smith (B), Smith (J) and Windom

#### SENATE JOINT RESOLUTION

#### RECOGNIZING THE ALABAMA JUNIOR COLLEGE ATHLETIC HALL OF FAME.

WHEREAS, junior college athletics started in Alabama in 1891; and

WHEREAS, Alexander City State Junior College, S. D. Bishop State Community College, Brewer State Junior College, J. C. Calhoun State Community College, Chattahoochee Valley State Community College, Jefferson Davis State Junior College, Enterprise State Junior College, James H. Faulkner State Junior College, Gadsden State Community College, Patrick Henry State Junior College, Jefferson State Community College, Lawson State Community College, Marion Military Institute, Northwest State Junior College, Selma University, Shelton State Community College, Snead State Junior College, Southern Junior College, Southern Union State Junior College, Walker

College, G. C. Wallace State Community College, Wallace State Community College, G. C. Wallace State Community College, and L. B. Wallace State Junior College are members of the Alabama Junior College Conference providing educational opportunities to the youth of Alabama through one hundred and six separate athletic teams; and

WHEREAS, the Alabama Junior College Conference has established an Athletic Hall of Fame to recognize outstanding contributions to athletics in Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Alabama Junior College Conference for establishing the Athletic Hall of Fame.

BE IT FURTHER RESOLVED, That the Legislature congratulates and recognizes the first ten inductees into the Alabama Junior College Athletic Hall of Fame.

RESOLVED FURTHER, That each of the following inductees shall receive a copy of this Resolution: Michael Anderson, Jefferson State Community College; Glen R. Clem, Walker College; Danny Cox, Chattahoochee Valley Community College; John Douglas, Calhoun Community College; Emmit King, Jefferson State Community College; Dr. William H. McWhorter, Lurleen B. Wallace State Junior College; Clifford Outlin, Calhoun Community College; Emmett S. Plunkett, Snead State Junior College; Gary Redus, Calhoun Community College and Dr. James E. Van Horn, Wallace State Community College-Hanceville.

Approved May 19, 1989

Time: 5:42 P.M.

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Act No. 89-928

S.J.R. 224—Senator Preuitt

### SENATE JOINT RESOLUTION

RECOGNIZING AND COMMENDING THE WILSON BROTHERS AND FAMILIES OF CHILDERSBURG.

WHEREAS, B. S. Wilson and family, C. P. Wilson and family, and C. P. Wilson, Jr., and family of Wilson Brothers Construction, Childersburg, Alabama, have been instrumental in the development and growth of the State of Alabama, the County of Talladega and the City of Childersburg, for over forty years; and

WHEREAS, C. P. Wilson has served in various capacities on county and state construction boards and is presently a member of Childersburg Industrial Development Board, and is a director of the First Bank of Childersburg; B. S. Wilson has served on many local boards, is a member of the Citizens Advisory Group and is a director of First Federal Savings and Loan Association of Sylacauga; and C. P. Wilson, Jr., has served on the boards of many civic organizations and is constantly working to the improvement of the City of Childersburg; and

WHEREAS, all the families have made further contributions to the State, County and City, by actively participating with enthusiasm, and through demonstrating love, understanding, and devotion to the needs of all; and

WHEREAS, sensing the need for a new middle school and in a desire to see the school's progress and the children better educated, the Wilson families donated some fifty five (55) acres of land to the County Board of Education, thereby making it financially feasible for a new school to be built in Childersburg; they then actively sought the help of many other City, County and State officials to make this dream come true for all Childersburg citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express sincere appreciation to the Wilson families of Wilson Brothers Construction Company, Childersburg, Alabama, for contributions and services to the State of Alabama, Talladega County and the City of Childersburg and, most importantly, for making possible the construction of the new Childersburg Middle School.

BE IT FURTHER RESOLVED, That copies of this resolution of honor and esteem be forwarded to the B. S. Wilson, C. P. Wilson and C. P. Wilson, Jr., families and that a copy also be provided for appropriate display by the Wilson Brothers Construction Company of Childersburg.

Approved May 19, 1989

Time: 5:43 P.M.

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Act No. 89-929

S.J.R. 245—Senator Hilliard

### SENATE JOINT RESOLUTION

COMMENDING EDNA BLUE JOHNSON OF BIRMINGHAM, ALABAMA, AS "ZETA OF THE YEAR."

WHEREAS, it is with highest commendation that the Legislature of Alabama congratulates Edna Blue Johnson of Birmingham, Alabama, upon her selection as "Zeta of the Year," a prestigious award of Alpha Sigma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated; and

WHEREAS, Mrs. Johnson, as the recipient of "Zeta of the Year" honors, was cited for her outstanding commitment and dedication to the Sorority and for her faithful work with twenty teenage girls in the Birmingham School System; and

WHEREAS, Zeta Phi Beta, a national sorority, is a community-conscious, action-oriented organization and Mrs. Johnson, as "Zeta of the Year," exemplifies the worthy purpose and goals of this outstanding service and social sisterhood; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to others and commitment to Zeta Phi Beta Sorority, we hereby commend "Zeta of the Year," Mrs. Edna Blue Johnson of Birmingham, Alabama, whom we hold in highest regard and to whom a copy of this resolution of honor shall be presented.

Approved May 19, 1989

Time: 5:44 P.M.

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Act No. 89-930

S.J.R. 248—Senator Dial

### SENATE JOINT RESOLUTION

#### COMMENDING THE CLEBURNE COUNTY HIGH SCHOOL INTERMEDIATE FUTURE PROBLEM SOLVING TEAM.

WHEREAS, in consensus of commendation and esteem, the Alabama Legislature congratulates the Cleburne County High School Intermediate Team, comprised of five gifted and talented students, grades 7-9, who won the Alabama Future Problem Solving Bowl, junior high division, and will represent the State of Alabama in the International Bowl, June 11-14, 1989, in Ann Arbor, Michigan; and

WHEREAS, the Future Problem Solving Program emphasizes problem solving as the most basic skill taught in today's schools and, most particularly, future problem solving which demands both divergent and convergent thinking in the interaction process of a team setting; and

WHEREAS, this year-long educational program provides a forum whereby capable and gifted students are challenged to solve problems related to five different topics which are changed annually; and

WHEREAS, the intermediate team winners from Cleburne County High School, and Alabama's leaders of tomorrow, are Matt Clegg, Ryan Brown, Zach Butterworth, Jason Shumake and Jeremy Whitman (alternate) who excelled in this year's problem solving topics related to Energy Sources, Youth and the Law, Nutrition and Employment; the 1989 International Bowl topic will be related to Terrorism; and

WHEREAS, serving as parent sponsor for the team is Joan Butterworth (Mrs. Dan L.) and the teacher sponsor is Billie Small who is the gifted program coordinator at Cleburne High; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the sponsors and members of the Cleburne County High School Intermediate Future Problem Solving Team for outstanding achievement and do further express gratitude for their distinguished representation of the State of Alabama in forthcoming International Bowl competition.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for appropriate presentation and display at Cleburne County High School.

Approved May 19, 1989

Time: 5:45 P.M.

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Act No. 89-931

S.J.R. 252—Senator Foshee

### SENATE JOINT RESOLUTION

REQUESTING A JOINT STUDY ON DEER HUNTING IN THE CONECUH NATIONAL FOREST.

WHEREAS, it has come to the attention of certain members of the Alabama Legislature that areas of the Conecuh National Forest lying within the boundaries of Escambia and Covington Counties might be designated as a game management area by the National Forest Service and the Alabama Department of Conservation; and

WHEREAS, there are conflicting reports as to the deer population on this national forest public land; and

WHEREAS, a vast majority of the people in Escambia and Covington Counties have a deep and abiding interest in these public forest lands because of their location within these two counties; and

WHEREAS, the desires of the dog hunters in Escambia and Covington Counties should be given particular consideration in any decision regarding deer hunting on the lands of the Conecuh National Forest within these counties; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do encourage and request that the National Forest Service and the Alabama Department of Conservation and Natural Resources meet with representatives of the South Alabama Dog Hunters Association to study the Conecuh National Forest with regard to the deer population and the hunting thereof and the need for food plots. We particularly request that no changes be made in the hunting methods and seasons for at least one year until a mutually agreeable solution can be reached by all the parties concerned.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the National Forest Service and the Alabama Department of Conservation and Natural Resources.

Approved May 19, 1989

Time: 5:46 P.M.

Act No. 89-932

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S.J.R. 257—Senators Holmes, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Campbell, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hale, Hand, Hilliard, Horn, Langford, Manley, Mitchem, Parsons, Preuitt, Rice, Sanders, Smith (B), Smith (J) and Windom

#### SENATE JOINT RESOLUTION

COMMENDING THE BALDWIN COUNTY HIGH SCHOOL JUNIORETTES, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to recognize Alabamians of outstanding achievement, the Legislature of Alabama notes the notable accomplishments of the Juniorettes, an academic club of fifty-three young women at Baldwin County High School; and

WHEREAS, each Juniorette is chosen on her academic excellence, school extra-curricular activities, community involvement, high moral character and personality; and

WHEREAS, under the sponsorship of the Heritage Junior Women's Club of Bay Minette, the Juniorettes received a General Federation of Womens' Club Charter (GFWC); and

WHEREAS, the Juniorettes' involvement in community and civic affairs encompasses such activities as raising money for the March of Dimes and the American Cancer Society, assisting the Kiwanis with a clean-up campaign in Bay Minette, establishing an academic scholarship at Baldwin County High School for an outstanding graduating young woman; and

WHEREAS, the Juniorettes plan to erect a memorial rose garden of The American Heritage Rose in honor of Mrs. Mary Ellen Christenberry, a retired teacher from Baldwin County High School; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend the Juniorettes and their sponsor, Connie R. Holmes, for outstanding achievement.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Juniorettes and Connie R. Holmes with our very best wishes for the future.

Approved May 19, 1989

Time: 5:47 P.M.

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Act No. 89-933

S.J.R. 259—Senator Hand

### SENATE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE 5TH ANNIVERSARY OF THE INCORPORATION OF ORANGE BEACH, ALABAMA.

WHEREAS, the State of Alabama includes many fine municipalities within its borders; and

WHEREAS, included among these municipalities are cities and towns, young and old, large and small; and

WHEREAS, the Town of Orange Beach, Alabama, voted to incorporate July 10, 1984; and



WHEREAS, the Town of Orange Beach, Alabama, incorporated August 1, 1984; and

WHEREAS, the first Town Council of the Town of Orange Beach, Alabama, took office October 15, 1984; and

WHEREAS, the Town of Orange Beach, Alabama, is representative of the growth and vitality of the State of Alabama; and

WHEREAS, the State of Alabama recognizes Orange Beach as the summer residence of citizens throughout the State; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That with highest commendation, we hereby recognize October 14, 1989, as the 5th birthday of the Town of Orange Beach to be celebrated as an Alabama Reunion event, and do further recognize the 2nd Saturday of subsequent years as the annual birthday celebration for Orange Beach.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation on October 14, 1989, to the Honorable Ronald Callaway, Mayor of the Town of Orange Beach.

Approved May 19, 1989

Time: 5:48 P.M.

Act No. 89-934

S.J.R. 263—Senators Manley, Goodwin, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Campbell, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Hale, Hand, Hilliard, Holmes, Horn, Langford, Mitchem, Parsons, Preuitt, Rice, Sanders, Smith (B), Smith (J) and Windom

#### SENATE JOINT RESOLUTION

NAMING HOUSE BILL NO. 17 OF THE 1989 REGULAR SESSION "THE BREEDLOVE ALLIGATOR BILL."

WHEREAS, Representative Michael Breedlove of Jackson and Clarke Counties has diligently pursued legislation to permit breeding of farm-raised alligators in Alabama; and

WHEREAS, Representative Breedlove has introduced legislation of this nature each year that he has served in the Alabama House of Representatives; and

WHEREAS, Representative Breedlove has assured each member of the House and the Senate that upon passage of such legislation, he will provide alligator shoes, an alligator belt and an alligator purse for each of us; and

WHEREAS, Representative Breedlove is known as one of the most knowledgeable men in Alabama on alligator breeding, alligator farming and resulting alligator products; and

WHEREAS, because of Representative Breedlove's leadership in the alligator field and his knowledge regarding alligator programs, he has been and will always be affectionately known by the members of the Alabama Legislature as "Gator Man"; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby designate House Bill No. 17 of the 1989 Regular Session as "The Breedlove Alligator Bill," do further bestow upon Representative Breedlove the official title of "Gator Man," and that a copy of this Resolution be presented to Representative Michael Breedlove.

Approved May 19, 1989

Time: 5:49 P.M.

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Act No. 89-935

S.J.R. 264—Senator Denton

### SENATE JOINT RESOLUTION

DESIGNATING THE MONARCH BUTTERFLY AS THE OFFICIAL INSECT OF ALABAMA.

WHEREAS, the Monarch Butterfly, *Danaus plexippus*, is a fitting representative of the thousands of native insect species that are a part of the natural heritage of the United States, and is a unique native species well known throughout our state of Alabama; and

WHEREAS, the Monarch Butterfly enhances the beauty of the environment and signals the need for protection and conservation of our natural wonders; and

WHEREAS, the Monarch Butterfly has been recognized for its many benefits to mankind, its unique migration and over wintering habits and its relationship to our wild milkweeds; and

WHEREAS, the Alabama Garden Clubs through their efforts have set aside April 16th as the official "Save the Butterfly Day" for the State of Alabama; and

WHEREAS, the State of Alabama does not have an official State insect as the States of California, Georgia, Illinois, Maryland and Oregon have designated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the Monarch Butterfly as the Official Insect for the State of Alabama.

Approved May 19, 1989

Time: 5:50 P.M.

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Act No. 89-936

S.J.R. 246—Senator Preuitt

### SENATE JOINT RESOLUTION

#### ESTABLISHING THE CONTINUING JOINT STUDY COMMITTEE ON THE BLIND AND HEARING IMPAIRED.

WHEREAS, there exists a need to study all aspects of education, training and the administration of educational and training programs of blind and sight and hearing impaired persons in this state, and to coordinate such programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created the continuing Joint Study Committee on the Blind and Hearing Impaired, to be composed of six members as follows: three House of Representatives members appointed by the Speaker of the House, and three Senate members appointed by the Lieutenant Governor.

The chairman and vice chairman of the committee shall be elected at the first meeting, and annually thereafter, by the members of the committee. The committee shall study all aspects of the education and training of blind and sight and hearing impaired persons in this state, and the administration of educational and training programs for such persons, and shall study and suggest methods of coordinating such programs throughout the state. The committee shall specifically study the operations of the Alabama Institute of the Deaf and Blind and the Industries for the Blind, including the daily operations, management, and plans for future expansions for the institute and/or plant facilities, and the salaries

and other expenses of the administrative staffs and faculties of such institutions. The committee shall also specifically study the statewide educational and training efforts and programs for blind persons and sight and hearing impaired persons.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the fifth legislative day of the 1990 Regular Session, at which time it shall cease to exist. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses within and without the state for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session but they shall receive their travel expenses for all meetings attended and any travel upon the business of the committee within and without the state, and the total expenses of the committee shall not exceed \$7,500.00 per annum.

Approved May 19, 1989

Time: 5:51 P.M.

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Act No. 89-937

S.J.R. 274—Senator Dial

### SENATE JOINT RESOLUTION

NAMING THE CLAY COUNTY NURSING HOME IN MEMORY AND HONOR OF DR. C. P. HORN.

WHEREAS, the Legislature of Alabama grievously records the death of Cecil P. Horn of Ashland, Alabama, on March 26, 1989, at the age of 71 years; and

WHEREAS, a native and lifelong resident of Clay County, Cecil P. Horn was a graduate of the University of Alabama and of the University of Tennessee Medical School, and was a veteran of World War II, having served in the United States Army with the rank of Captain; and

WHEREAS, Dr. Horn established his medical practice in Ashland where he served the citizens of Clay County until his death, earning the regard and affection of his many patients unto whom he ministered in genuine care and concern for more than 42 years; and

WHEREAS, Dr. Horn also served his profession through membership and activities of several medical associations; served as Director of the Clay County Nursing Home for 20 years; and had further served as Chief of Staff of the Clay County Hospital; and

WHEREAS, in community and civic leadership, Dr. Horn was a member of the First United Methodist Church of Ashland and was a longtime active member of the Choccolocco Council of the Boy Scouts of America; he additionally was a former trustee in the Ashland schools and was team physician for the Ashland Panthers for many years; and

WHEREAS, in the death of Dr. C. P. Horn, the Ashland and Clay County communities have suffered a deep and grievous loss, and it is therefore desirable that his life and service be commemorated in a lasting and appropriate manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and loving memory of Dr. C. P. Horn, we hereby name and designate the Clay County Nursing Home in Clay County, Alabama, as the "Dr. C. P. Horn-Clay County Nursing Home."

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers so designating the "Dr. C. P. Horn-Clay County Nursing Home", and that a copy of this resolution shall be forwarded to Dr. Horn's wife, Mrs. Margaret M. Horn; sons, Cecil P. Horn, Jr., Charles W. Horn, Eric Horn and George Franklin Horn; to his daughters, Miss Elizabeth Anne Horn and Mrs. Ardelia Braden; and to other family members that they may know of our shared sorrow in their deep and grievous loss.

Approved May 19, 1989

Time: 5:52 P.M.

Act No. 89-938

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S.J.R. 278—Senators Manley, deGraffenried, Ellis, Bedsole, Hale, Amari, Bailey, Barron, Bedford, Bennett, Bishop, Cabaniss, Campbell, Corbett, Covington, Denton, Dial, Dixon, Drinkard, Figures, Foshee, Goodwin, Hilliard, Holmes, Horn, Langford, Mitchem, Parsons, Preuitt, Rice, Sanders,

Smith (B), Smith (J) and  
Windom

## SENATE JOINT RESOLUTION

COMMENDING PERRY HAND OF GULF SHORES ON HIS  
DISTINGUISHED LEGISLATIVE TENURE.

WHEREAS, our good friend and colleague, Perry Hand of Gulf Shores, was elected to the Alabama Senate in 1983 and, for the past six years, has rendered invaluable service to his constituents in Senate district 32 and to all citizens of the State of Alabama; and

WHEREAS, indicative of Senator Hand's accomplished service in his selection in 1988, by secret ballot of his peers, as the Most Outstanding Member of the Senate; he also was nominated in 1987 for this signal honor by his fellow Senate members; and

WHEREAS, Senator Hand, who is a 1969 graduate of Auburn University, operates a highly successful civil engineering firm in Gulf Shores and Shelby County and is a member of the American Congress on Surveying and Mapping, the Alabama Society of Professional Land Surveyors, and the Society of Photogrammetry; and

WHEREAS, he also is a member of the United Methodist Church of Gulf Shores; a member of the Optimist and Rotary Clubs; and, in his leisure time, as a proficient sailor, is often to be found off-shore aboard his sailboat; and

WHEREAS, it is with mixed emotion that we view our colleague's departure from the Senate; we shall, of course, miss his knowledge, expertise and sound judgment, but are pleased with his appointment by Governor Hunt as Secretary of State, knowing that he takes with him to his new position the same admirable attributes that have rendered him invaluable to this body; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his outstanding legislative service and contributions, and with warm best wishes for his every future success, we hereby commend our good friend, Perry Hand of Gulf Shores, Alabama, whom we hold in warmest personal regard and to whom a copy of this resolution shall be presented.

Approved May 19, 1989

Time: 5:53 P.M.

Act No. 89-939

S. 7—Senator Mitchem

## AN ACT

To provide that any person who kills a dog used by a peace officer within the line and scope of said officer's duties shall be guilty of a felony offense.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** No person shall intentionally, knowingly, recklessly or with criminal negligence kill a dog used by a peace officer to perform tasks within the line and scope of said officer's duties. For the purposes of this act the term "peace officer" shall have the meaning prescribed in Section 36-30-1, Code of Alabama 1975. Any person who violates the provisions of this act shall, upon conviction, be guilty of a Class C felony as defined by the Code of Alabama 1975. The provisions of this act shall not apply to any person who violates the provisions of this act during the course of an orderly demonstration or activity in pursuit of one's civil rights.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:45 P.M.

Act No. 89-940

S. 25—Senator Horn

## AN ACT

Relating to the composition of the board of directors of that certain public corporation, the Alabama State Fair Authority, created by Act No. 215, 1947 General Acts of Alabama; amending Section 4 of Act No. 215, S. 278, Regular Session 1947 (General Acts of Alabama of 1947, p. 81), as amended, which relates to the composition of the board of such authorities in certain cities having a certain population in Jefferson County, so as to increase the number and providing the manner of their selection.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 4 of Act No. 215, S. 278, Regular Session 1947 (General Acts of Alabama of 1947, p. 81), as amended, is hereby amended to read as follows:

“Section 4. Such Authority formed under this act shall constitute a public benefit agency of the State of Alabama and shall have a board of directors of nine members selected as herein provided. Such board of directors shall constitute the governing body of the authority. The members of said board of directors shall serve without compensation, except they shall be reimbursed for actual expenses incurred in and about the performance of their duties hereunder. No member of the board of directors shall be an officer of the city. The six original and their subsequent directors shall be elected by the governing body of the city, and they shall be so elected that they shall hold office for staggering terms. For the purpose of so staggering the terms, the directorships shall be numbered one through six, inclusive. The first term of office of each director shall be for a number of years corresponding to the number of the directorship which he holds; and, thereafter the term of office of each director shall be six years. Any person appointed to any vacant directorship during any term of such directorship shall be deemed appointed for the remainder of such term; provided, that if any person be appointed to any vacant directorship during the last six months of any term of such directorship, he shall be deemed appointed for the remainder of such term and for the next succeeding term of such directorship. Three members shall be selected as follows: two members selected by the Alabama Senate members representing the county in which the city of the authority is located, approved by a majority vote of the members of the Senate composing said county delegation; and one member selected by the House of Representatives members representing the county in which the city of the authority is located, approved by a majority vote of the members of the House comprising said county delegation. The incumbent of a directorship may be removed from the board of directors by the council, commission or other governing body of the city for inefficiency, neglect of duty or malfeasance after a fair hearing or opportunity therefor. Every appointment or removal of a director, except for legislative appointed members, shall be by resolution of the council, commission or other governing body of such city. A chairman and vice-chairman of said authority shall be elected by the authority from among its members, and a secretary shall be appointed, who may be or may not be a member of said board. In the absence of incapacity of the chairman, the vice-chairman shall serve as chairman and may perform such acts and duties as the chairman is authorized to perform. The power of said authority shall be vested in and exercised by the majority of the members of the authority then in office. The said authority may



delegate to one or more of its members or its officers, agents and employees such power and duties as it may deem proper, and shall appoint a treasurer, who may or may not be a member of the authority, to act as custodian of all of the funds, from whatever source derived, received by said authority, and shall deposit said moneys in a separate account or accounts in one or more banks or trust companies which are duly qualified and doing business in the State of Alabama; provided, however, the authority may by resolution or by trust indenture securing the issuance of bonds herein authorized designate a fiscal agent or trustee, which shall be a bank or trust company duly qualified to do business in the State of Alabama, and may authorize such fiscal agent or trustee to receive and disburse, upon such terms and conditions (and subject to such exceptions, if any) as may be specified in such resolution or trust indenture, all funds applicable to payment of said bonds. All such banks and trust companies are authorized to give security for moneys deposited with it."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:55 P.M.

Act No. 89-941

S. 59—Senators Ellis, Hale and Bedsole

### AN ACT

To amend Section 9-11-237, Code of Alabama 1975, as last amended, relating to the sale, barter, exchange, and purchase of game birds or animals or parts thereof, so as to permit the sale, purchase, barter or exchange for value, of certain untanned deer hides and hooves and certain finished product items.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-11-237, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"Section 9-11-237.

"Any person, firm or corporation who sells, offers or exposes for sale, buys, purchases, barter or exchanges anything of value for any game bird or game animal or any part thereof at any time shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$250.00 nor more than \$500.00 for each offense; provided, that duly licensed catchers of fur-bearing animals may sell

to regularly licensed buyers or dealers only the furs, skins or pelts of fur-bearing animals which they lawfully take, capture or kill; provided further, that such licensed catcher of fur-bearing animals may sell or offer for sale for food the dressed carcass of edible fur-bearing animals named by law or regulations based thereunder. However, notwithstanding anything herein to the contrary, it shall not be a violation of this section to sell, offer or expose for sale, buy, purchase, barter, or exchange anything of value for: (a) lawfully taken "green" or raw untanned deer hides and their hooves, squirrels skins, hides and tails, and (b) finished product items such as gloves, shoes, clothing, jewelry, tanned deer hides and similar products."

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:56 P.M.

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Act No. 89-942

S. 79—Senator Smith (J)

### AN ACT

To provide that a memorandum of lease may be recorded in lieu of the lease itself provided certain information is contained therein. Further to amend Ala. Code §35-4-6 (1975) so as to provide that recordation of a memorandum of lease has the same effect as recording the lease itself. This act is retroactive and ratifies and confirms any memorandum of lease previously filed which conforms to this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) A memorandum of a lease may be recorded in lieu of the lease itself if the memorandum is executed and acknowledged by the lessor and the lessee and contains:

- (1) the names of the lessor and lessee;
- (2) the term of the lease;
- (3) any option of the lessee to renew or extend the term of the lease; and
- (4) the specific legal description of the leased premises, or a survey or plot plan authorized under subsection (c) showing the location of the leased premises.

(b) A memorandum recorded under this section may also contain any other agreement made between the lessor and the lessee in the lease.

(c) A survey or plot plan may be used in lieu of a specific legal description to describe:

(1) any part of a building on the leased premises, if the specific legal description of the real property on which the building is located is set forth in the memorandum, survey, or plot plan;

(2) any part of the leased premises that is part of a larger tract of land, if the specific legal description of the larger tract is set forth in the memorandum, survey, or plot plan; or

(3) real property of the lessor, in addition to the leased premises if:

(i) the use of such additional real property is restricted, benefitted or otherwise affected by the terms of the lease; and

(ii) the specific legal description of the additional real property is set forth in the memorandum, survey, or plot plan.

(d) As to the provisions contained in a memorandum recorded under this section, recording the memorandum has the same effect as recording the lease itself.

## **Section 2. Laws Amended.**

§35-4-6. Maximum Term of Leasehold Estate; Acknowledgment or Approval and Recordation of Leases for More than 20 Years.

No leasehold estate can be created for a longer term than 99 years. Leases for more than 20 years shall be void for the excess over said period unless the lease or a memorandum thereof is acknowledged or approved as required by law in conveyances of real estate and recorded within one year after execution in the office of the judge of probate in the county in which the property leased is situated.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

## **Section 4. Severability.**

If any provisions of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without

the invalid provision or application, and to this end provisions of this act are severable.

Approved May 19, 1989

Time: 5:57 P.M.

Act No. 89-943

S. 83—Senators Covington and Foshee

### AN ACT

Relating to the Public Service Commission; to amend Sections 37-2-41, 37-4-23 and 37-4-116 of the Code of Alabama 1975, relating to imposition and disposition of certain inspection and supervision fees collected by the Alabama Public Service Commission, so as to provide further for the imposition and disposition of such fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-2-41 of the Code of Alabama 1975 is hereby amended to read as follows:

“§37-2-41.

“(a) Each transportation company doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations shall pay quarterly to the commission, beginning November 1, 1985 and on each quarter thereafter, February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business during the next preceding fiscal year. Such inspection and supervision fees shall be paid by such transportation companies in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fees shall be measured by the amount of gross receipts of each such transportation company for the fiscal year next preceding the dates herein fixed for the payment of the same, except that in case of such transportation companies engaged in interstate business, the fees shall be measured by the gross receipts of such transportation companies from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.50 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.00 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including

\$1,000,000.00 thereof; a fee of \$1.50 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof, but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any transportation company. However, all transportation companies with gross intrastate receipts in excess of \$60,000,000.00 per calendar quarter will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such companies shall pay fees due for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis beginning with the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ended June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively; provided, however, that the maximum amount so to be paid for any one year by any such transportation company operating any railroad, or part of a railroad in this state, shall be \$5,000.00. The commission shall keep a true record of all such amounts so paid to it, under this subsection and subsection (b) of this section, but said amounts, when received by the commission, shall be promptly paid over to the treasurer, and shall be held in the Commission's operating fund by, and shall be paid out by the treasurer in payment of expenses incurred by the commission under this Title upon warrants drawn as provided by law upon the treasurer and approved as required by law. Payment of the supervision and inspection fees provided for hereunder shall in all respects be governed by the provisions of subsections (c) and (d) of this section.

“(b) In lieu of the inspection and supervision fees provided for in subsection (a) of this section, each provider of pay telephone service over instruments owned and/or operated by local exchange companies, interexchange companies, and customer-owned, coin operated telephone service providers doing business in the state and subject to the control and jurisdiction of the commission, may elect to pay a fee for the inspection and supervision of such pay telephone or coin-operated telephone service business during the next preceding fiscal year. Such inspection and supervision paid in lieu of the fees provided for in subsection (a) of this section, shall be in addition to any and all property, franchise, license, intangible and other taxes, fees, and charges now or hereafter provided by law, and shall be measured by the number of instruments in operation during such fiscal year within the state of Alabama. Such fee shall be \$10.00 per instrument and no other inspection and supervision fee shall be due upon any such instrument.

“(c) Supervision and inspection fees provided for in this article shall be in default after February 1, May 1, August 1 and November 1 of each year, if not paid prior to or on that date. In the event

that the amount payable by any transportation company for any quarter cannot be ascertained on or before the dates herein prescribed for payment each year, such transportation company shall, in any event, pay the minimum supervision and inspection fee herein provided and in addition such part of any additional supervision and inspection fee as may be ascertainable on or before the date of default; and when any further or additional amount payable for such quarter can be ascertained, the same shall be paid within 30 days after it becomes possible to ascertain the same. Any transportation company failing in whole or in part to pay any supervision or inspection fee, or part thereof, due by it within any of the times herein prescribed for payment of the same, shall be in default and shall be liable to a penalty of not exceeding \$50.00 per day, to be recovered by suit of the state, for every day it thereafter remains in default, and such penalty may be recovered together with the supervision and inspection fee in default, in a single action.

“(d) Any transportation company may, at their own election, pay over the total fees due for the preceding fiscal year on November 1 of each year. Such payment to be governed by the provisions of subsections (c) and (e) of this section.

“(e) The state shall have a lien upon all the property in this state of any transportation company for the payment of the supervision and inspection fees provided for in this chapter to be paid and the penalties in this chapter provided for, which lien shall be superior to all other liens, except the lien for state, county and municipal taxes.”

**Section 2.** Section 37-4-23 of the Code of Alabama 1975, is hereby amended to read as follows:

“§37-4-23.

“Each utility, as defined in this chapter, doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations, shall pay quarterly to the commission beginning November 1, 1985 and on each quarter thereafter February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business. Such inspection and supervision fees shall be paid by such utilities in addition to any and all property, franchise, licence, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fee shall be measured by the amount of the gross receipts of each such utility for the fiscal

year next preceding the dates fixed in this article for the payment of the same, except that in case of such utilities engaged in interstate business, the fees shall be measured by the gross receipts of such utilities from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.50 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts, a fee of \$2.00 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; and a fee of \$1.50 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof; but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any utility. However, all utilities with gross intrastate receipts in excess of \$60,000,000.00 per calendar year will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such utilities shall pay fees due based on gross receipts for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis fees based on gross receipts for the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ended June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively. The commission shall keep a true record of all such amounts so paid to it, but said amounts when received by the commission shall be promptly paid over to the treasurer and shall be held in the Commission's operating fund by him except those funds identified in Title 37-4-88 which are designated for the 'Gas Pipeline Safety Fund,' and shall be paid out by the treasurer in payment of expenses incurred by the commission under this Title upon warrants drawn by the comptroller on the treasurer, and approved by said commission or a majority thereof. Subject to the provisions of the merit system, the commission shall have power to employ such assistants as may be found necessary to aid the commission in such regulation, and to make payment for any necessary traveling or incidental expenses incurred in connection with such regulation, which shall be paid out of said fund as aforesaid, so far as it may be available. Payment of the supervision and inspection fees provided for under this section shall in all respects be governed by the provisions of section 37-4-24."

**Section 3.** Section 37-4-116 of the Code of Alabama 1975, is hereby amended to read as follows:

"§37-4-116.

"(a) Each radio utility, as defined in this article, doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations, shall

pay quarterly to the commission, beginning on November 1, 1988, and on each quarter thereafter, February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business during the next preceding fiscal year. Such inspection and supervision fees shall be paid by such radio utilities in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fees shall be measured by the amount of the gross receipts of each such utility derived from the sale of air time for the fiscal year next preceding the dates herein fixed for the payment of the same, except that in case of such utilities engaged in interstate business the fee shall be measured by the gross receipts of such utilities from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.50 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.00 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; and a fee of \$1.50 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof; but in no case shall said fee be less than \$50.00, which shall be the minimum inspection and supervision fee to be paid by any radio utility, and this amount shall in any event be paid over on a quarterly basis beginning November 1, 1988, at which time the first amount due based upon the remainder of the fiscal year January 1, 1988, through September 30, 1988, is to be paid, and then to be paid on each quarter thereafter on February 1, May 1, August 1, and every year thereafter to be paid over on November 1, February 1, May 1, and August 1 for the preceding fiscal year. The commission shall keep a true record of all such amounts so paid to it, but said amounts when received by the commission shall be promptly paid over to the treasurer and shall be held in the commission's operating fund, and shall be paid out by the treasurer in payment of expenses incurred by the commission under this Title, upon warrants drawn by the comptroller on the treasurer, and approved by said commission or a majority vote thereof. Subject to the provisions of the merit system, the commission shall have power to employ such assistants as may be found necessary to aid the commission in such regulation, and to make payment for any necessary traveling or incidental expenses incurred in connection with such regulation, which shall be paid out of said fund as aforesaid, so far as it may be available.

“(b) Supervision and inspection fees provided for in this chapter shall be in default on or after the dates herein prescribed of each



year, if not paid prior to that date. Any radio utility failing, in whole or in part, to pay any supervision or inspection fee, or part thereof, due by it within the time prescribed in this section for the payment of the same, shall be in default, and shall be liable to a penalty of not exceeding \$5.00 per day, to be recovered by suit of the state, for every day it thereafter remains in default, and such penalty may be recovered together with the supervision and inspection fee, in default, in a single action. And the state shall have a lien upon all the property in this state of any radio utility for the payment of the supervision and inspection fees provided by this article, to be paid, and the penalties in this section provided for, which lien shall be superior to all other liens, except the lien for state, county and municipal taxes.

“(c) Any radio utility may, at its own election, pay over the total fee due for the preceding fiscal year on November 1 of each year, such payment to be governed by the provisions of subsection (b) of this section.”

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:58 P.M.

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Act No. 89-944

S. 127—Senator Dial

### AN ACT

To amend section 32-6-272, Code of Alabama 1975, relating to the issuance of license plates to fire fighters, so as to authorize the issuance of said plates at reduced cost to the recipient.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-6-272, Code of Alabama 1975, is hereby amended to read as follows:

“§32-6-272.

“The distinctive license plates here provided for shall be prepared by the commissioner of revenue and shall be issued through the judge of probate or license commissioner of the several counties of the state in like manner as are other motor vehicle license plates or tags and such officers shall be entitled to their regular fees for such service. The chief of each certified volunteer fire department shall submit to the Alabama forestry commission by October 1 of each year a list

of certified fire fighters from his department who are eligible for the distinctive license plate or tag. The fire fighters' personnel standards and education committee shall submit to the Alabama forestry commission by October 1 of each year a list of certified fire fighters who are members of paid or part-paid fire departments and who are eligible for such distinctive license plates or tags. The forestry commission shall submit to the probate judge or license commissioner of each county by December 1 of each year a list of the certified fire fighters in the county who are eligible for the distinctive license plate or tag under this division. Applicants for such distinctive plates shall present to the issuing official proof of their identification. If such applicant's name is on the list furnished by the Alabama forestry commission to the probate judge or license commissioner, the fire fighter shall be issued one distinctive license plate or tag upon the payment of the regular license fee for tags, as provided by law, but shall not be required to pay the \$3.00 fee. The distinctive license plates or tags so issued shall be used only upon and for personally-owned, private, passenger vehicles (to include station wagons and pick-up trucks) registered in the name of the fire fighter making application therefor, and when so issued to such applicant shall be used upon the vehicle for which issued in lieu of the standard license plates or license tags normally issued for such vehicle."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 5:59 P.M.

Act No. 89-945

S. 136—Senators Bedford, Bennett,  
Covington and Bailey

### AN ACT

To amend section 15-22-31, Code of Alabama 1975, which provides for the retaking of parolees, with or without arrest warrants, so as to increase the number of days a parolee may be held awaiting the arrival of a warrant.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 15-22-31, Code of Alabama, 1975, is hereby amended to read as follows:

"§15-22-31.

"(a) If the parole officer having charge of a paroled prisoner or any member of the board of pardons and paroles shall have reasonable

cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company or has violated the conditions of his parole in an important respect, such officer or board member shall report such fact to the department of corrections, which shall thereupon issue a warrant for the retaking of such prisoner and his return to the prison designated.

“(b) Any parole officer, police officer, sheriff or other officer with power of arrest, upon the request of the parole officer, may arrest a parolee without a warrant; but, in case of an arrest without a warrant, the arresting officer shall have a written statement by said parole officer setting forth that the parolee has, in his judgment, violated the conditions of parole, in which case such statement shall be sufficient warrant for the detention of said parolee in the county jail or other appropriate place of detention until the warrant issued by the department of corrections has been received at the place of his detention; provided, however, that in no case shall a parolee be held longer than 20 days on the order of the parole officer awaiting the arrival of the warrant as provided for in this section.

“(c) Any parole officer, any officer authorized to serve criminal process or any peace officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such prisoner and returning him to the prison designated by the department of corrections, there to be held to await the action of the board of pardons and paroles.

“(d) Such officer, other than an officer of the prison or parole officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be retaken and as for transporting a convict from the place of arrest to the prison, in case such officer also transports the prisoner to the prison. Such fees shall be paid out of the funds standing to the credit of the department of corrections.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:00 P.M.

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Act No. 89-946

S. 200—Senator Dial

### AN ACT

To amend Section 40-12-240, Code of Alabama 1975, relating to definitions of motor vehicles, so as to define the portions of the definition of gross vehicle weight

which are no longer applicable and to amend Section 40-12-248, Code of Alabama 1975, relating to taxes and fees on trucks and tractors, so as to reduce the annual license taxes and registration fees on certain trucks known as self-propelled campers or house cars.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-12-240, Code of Alabama 1975, is hereby amended to read as follows:

“§40-12-240.

“For the purpose of this article, the following terms shall have the respective meanings ascribed by this section:

“(1) **DEALER.** Every person currently licensed by this state to engage in the business of buying, selling or exchanging vehicles required to be registered hereunder who has an established place of business for such purpose in this state and to whom current dealer registration plates have been issued by the department of revenue.

“(2) **ESTABLISHED PLACE OF BUSINESS.** A place actually occupied either continuously or at regular periods at or from which a business or a part thereof is transacted.

“(3) **FARM TRACTOR.** Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements designed and used for agricultural purposes and only incidentally moved upon public highways.

“(4) **GROSS VEHICLE WEIGHT.** Whenever used in section 40-12-248, or elsewhere in this section, the empty weight of the truck or truck tractor, plus the heaviest load to be carried and, in the case of combinations, the empty weight of the heaviest trailer with which the power unit shall be placed in combination, plus the heaviest load to be carried. The intent being that all licenses which are levied on the basis of the ‘gross vehicle weight’ of the vehicle plus the heaviest load to be carried, as ‘gross vehicle weight’ is hereinabove defined, shall be collected and enforced uniformly and in the same way.

“(5) **HOUSE TRAILER.** Any trailer or semitrailer which was designed to be drawn by another vehicle and (i) to provide living and sleeping facilities, or either, or (ii) for use as an office, apartment, storehouse or warehouse, or (iii) for display and promotion of merchandise and services or any similar purpose, but not including camping trailers with tops and sides, or either, which fold or collapse for in-transit movement and trailers which, although of the type customarily used for purposes referred to in the foregoing clauses (i), (ii) and (iii), are actually used for the purpose of transporting property for hire or property for distribution by a private carrier.

“(6) **JITNEY BUS.** A motor vehicle engaged in the business of carrying passengers for hire over, along and upon a definite or

substantially fixed route or routes, in the incorporated limits of any municipality or within 10 miles thereof, except where such vehicle is operated in conjunction with or in lieu of a street railway system or duly franchised bus operation authorized by the governing body of a city and the Alabama public service commission, all such motor vehicles that are excepted in the exception clause of this definition being subject to the license tax specified in subsection (a) of section 40-12-246.

“(7) MOTOR VEHICLE. Every vehicle which is self-propelled, every vehicle which is propelled by electric power from overhead trolley wires and every vehicle that is drawn by a self-propelled vehicle, including every trailer and semitrailer.

“(8) MOTORCYCLE. Every motor vehicle designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor bicycles, but not including farm tractors.

“(9) MUNICIPALITY. Any incorporated city or town in this state.

“(10) NONRESIDENT. Every person who is not a resident of this state.

“(11) OWNER. Any of the following:

“a. A person or persons holding the legal title to a motor vehicle;

“b. The mortgagor or conditional vendee of a vehicle that is the subject of a chattel mortgage or an agreement for the conditional sale thereof or other like agreement with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession vested in the mortgagor or conditional vendee, and

“c. The lessee of a vehicle owned by the United States of America or any of its agencies or instrumentalities.

“(12) PRIVATE PASSENGER AUTOMOBILE. Every motor vehicle designed primarily for the transportation of nine persons or less except the following:

“a. Motorcycles;

“b. Motor vehicles used in the transportation of persons for hire;

“c. Trailers or semitrailers; or

“d. Self-propelled campers or house cars; and includes also every motor vehicle of the type usually referred to as a bus which is owned and operated by an individual for personal or private use and not for hire, rent or compensation. Motor trucks of the type commonly

known as "pickups" or "pickup trucks," regardless of the use made of any such motor trucks and regardless of whether the owner thereof owns or has access to any other mode of transportation, shall not be deemed to constitute a private passenger automobile.

"(13) PERSON. Every individual, firm, partnership, association, estate, trust or corporation, and the receiver, assignee, agent, administrator or other representative of any of them.

"(14) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle, located either within a municipality or in unincorporated territory, and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term "public highway" shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions, but shall not be deemed to include private driveways, private roads or private places not intended for use by the public.

"(15) SEMITRAILER. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and some part of its load rest upon or are carried by another motor vehicle.

"(16) STATE. A state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada,

"(17) TAX YEAR. The tax year of this state, being the 12-month period commencing on each October 1.

"(18) TRAILER. Every vehicle without motive power designed to carry persons or property wholly on its own structure and to be drawn by another motor vehicle.

"(19) TRUCK. Every self-propelled motor vehicle designed and used primarily for the transportation of property in or upon its own structure, every self-propelled motor vehicle of the types known as "campers" and "house cars" and every vehicle of the type commonly called a wrecker, which is used to move disabled motor vehicles for repair, storage and other purposes.

"(20) TRUCK TRACTOR. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicles and load so drawn.

"(21) UTILITY TRAILER. A trailer primarily designed to be drawn by a passenger car or pickup truck, including luggage trailers,

folding or collapsible camping trailers and other small trailers of similar size and function, but shall not include boat trailers.

“(22) VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by muscular power or used exclusively upon rails or tracks.

“(23) SELF-PROPELLED CAMPERS OR HOUSE CARS. A self-propelled motor vehicle designed and used primarily for mobile living quarters. The living quarters on self-propelled campers or house cars are constructed as an integral part of the motor vehicle and are not detachable. Self-propelled campers or house cars are commonly known as motor homes.

“All references in this article to the judge of probate shall be deemed to include the commissioner of revenue, license commissioner or other county official designated by law to register motor vehicles, issue license plates and perform other duties in connection with motor vehicle licenses.”

**Section 2.** Section 40-12-248, Code of Alabama 1975, is hereby amended to read as follows:

“§40-12-248.

“(a) For each truck or truck tractor using the public highways of this state, annual license taxes and registration fees based on the gross vehicle weight in pounds are hereby imposed and shall be charged. For the purposes of this section, the term “gross vehicle weight” shall mean the empty weight of the truck or truck tractor plus the heaviest load to be carried and, in the case of combinations, shall be deemed to include also the empty weight of the heaviest trailer with which the power unit shall be placed in combination, plus the heaviest load to be carried. No tolerance or margin of error shall be allowable under any of the provisions of this section, except as provided in subsection (b).

“(b) For each truck or truck tractor using the public highways of this state, the annual license taxes and registration fees herein imposed (i) shall consist of the base amount applicable to such truck or truck tractor under the schedule of base amounts set forth in this subsection; plus (ii) the additional amount, if any, applicable to such truck or truck tractor under the provisions of the schedule of additional amounts set forth in this subsection:

#### “SCHEDULE OF BASE AMOUNTS

“Gross Vehicle Weight in Pounds	Base Amount
“0 to 8,000	\$ 10.70
“8,001 to 12,000	52.50

"12,001 to 18,000	85.00
"18,001 to 26,000	117.50
"26,001 to 33,000	150.00
"33,001 to 42,000	260.00
"42,001 to 55,000	292.50
"55,001 to 64,000	325.00
"64,001 to 73,280	357.50
"73,281 to 80,000	390.00
"80,001 or over	422.50

#### "SCHEDULE OF ADDITIONAL AMOUNTS

"Gross Vehicle Weight in Pounds	Additional Amounts
"0 to 8,000	\$ 2.30
"8,001 to 12,000	52.50
"12,001 to 18,000	85.00
"18,001 to 26,000	117.50
"26,001 to 33,000	150.00
"33,001 to 42,000	260.00
"42,001 to 55,000	292.50
"55,001 to 64,000	325.00
"64,001 to 73,280	357.50
"73,281 to 80,000	390.00
"80,001 or over	422.50

"The total amount of the said annual license tax and registration fee shall be limited with respect to trucks owned and used by a farmer for transporting farm products or the personal property of the farmer for his use on his farm to a maximum to \$30.00 where the gross vehicle weight of the truck does not exceed 30,000 pounds and to a maximum of \$85.00 where the gross vehicle weight of the truck exceeds 30,000 but does not exceed 42,000 pounds, and the said annual license tax and registration fee shall be limited with respect to trucks owned and used by any person for transporting forest products from the point of severance to a sawmill, to a papermill or to a concentration yard to a maximum of \$40.00 where the gross vehicle weight of the truck does not exceed 30,000 pounds and to a maximum of \$65.00 where the gross vehicle weight exceeds 30,000 pounds but does not exceed 42,000 pounds.

"For purposes of enforcement of farm truck license tags, or of forest products truck license tags for trucks that do not exceed 42,000 pounds in gross vehicle weight, all scaled weight shall be allowed a tolerance or a margin of error of 10 percent of the true gross or axle weights to allow for any climatic conditions.

"For each truck tractor which is operated by a certificated motor carrier and which is operated exclusively within 15 miles of the



corporate limits of the incorporated municipality in which it is customarily domiciled, but not including vehicles operating beyond the borders of Alabama, and which is registered in the county in which it is customarily domiciled, a total annual license tax and registration fee of \$300.00 is hereby imposed and shall be charged.

"The total amount of said annual license tax and registration fee shall be limited to the following schedule for all self-propelled campers or house cars; provided, however, said self-propelled camper or house cars whose weight does not exceed 8,000 pounds, shall be subject to the provisions of section 40-12-273(b):

#### "SCHEDULE OF BASE AMOUNTS

"Gross Vehicle Weight in Pounds	Base Amount
"0 to 8,000	\$ 10.70
"8,001 to 12,000	25.00
"12,001 to 18,000	50.00
"18,001 to 26,000	87.50
"26,001 to 33,000	137.50
"33,001 to 42,000	250.00

#### "SCHEDULE OF ADDITIONAL AMOUNTS

"Gross Vehicle Weight in Pounds	Additional Amounts
"0 to 8,000	\$ 2.30
"8,001 to 12,000	25.00
"12,001 to 18,000	50.00
"18,001 to 26,000	87.50
"26,001 to 33,000	137.50
"33,001 to 42,000	250.00

"(c) Every person making application for license under this section to use a truck or truck tractor on the public highways of this state shall be required to make an affidavit declaring the gross vehicle weight of such truck or truck tractor and file the said affidavit with the judge of probate, or other county licensing officer, in the county in which the said application is made. Upon payment of the applicable motor vehicle license tax or registration fee, the license to use the said truck or truck tractor on the public highways of this state shall be limited to the gross vehicle weight so declared by the owner, which shall be deemed to constitute the allowable gross vehicle weight for which the said vehicle is licensed.

"After having obtained a license under this section with respect to any truck or truck tractor, the owner thereof may during the then current tax year voluntarily increase the allowable gross vehicle weight

for which his vehicle is licensed by making a new affidavit, applying for a new license applicable to the appropriate gross vehicle weight classification, surrendering the license plates or tags previously obtained, and paying the difference between the fees applicable to a license for the higher weight classification desired and the fee in respect of the license so surrendered. The license classification of a truck or truck tractor may not be decreased, however, except once a year at the time new license tags or plates are purchased for such truck or truck tractor.”

**Section 3.** This act shall become effective on October 1, 1989.

Approved May 19, 1989

Time: 6:01 P.M.

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Act No. 89-947

S. 201—Senator Hilliard

### AN ACT

To amend Sections 41-4-110, 41-4-111 and 41-4-113 of the Code of Alabama 1975, so as to change the name of the Division of Purchases and Stores to the Division of Purchasing and to remove anachronistic language relating to the maintenance by the division of stores for storage and distribution of personal property.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-4-110 of the Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-4-110.

“(a) There shall be in the department of finance the division of purchasing. The functions and duties of the division of purchasing shall be as follows:

“(1) To purchase all personal property, except alcoholic beverages, which shall be purchased by the alcoholic beverage control board and except as otherwise provided by law, for the state and each department, board, bureau, commission, agency, office and institution thereof.

“(2) To make and supervise the execution of all contracts and leases for the use or acquisition of any personal property unless otherwise provided by law.

“(3) To fix standards of quality and quantity and to develop standard specifications for all personal property acquired by the state or any department, board, bureau, commission, agency, office or institution thereof.

“(4) To maintain records as to prices and sources of supply of such personal property, such records to be open to the inspection of any state, county, municipal or other public officer or employee charged with the duty of acquiring any such property or article for his department, board, bureau, commission, agency, office, institution, county, municipal corporation or local public body.

“(5) To manage, supervise and control all printing and binding for the state and for each department, board, bureau, commission, agency, office and institution thereof and the distribution of all printed matter and to make and supervise the execution of all contracts with respect thereto, unless otherwise provided by law.

“(6) To require the periodic reporting of all purchases of furniture, fixtures, supplies, material, equipment and other personal property, except printing, and all contracts and leases for the use or acquisition thereof by or for counties, the purchase, contract or lease price of which is \$100.00 or more, and to require information in connection therewith, to prescribe forms and fix the time for submitting such reports, and, when requested by any county, municipal corporation and other local public body (including any board of education) to make such purchases, contracts or leases for it. It shall be the duty of every county to make such report on forms furnished by the department of finance, whenever requested so to do, but not more than once every 30 days.

“(7) To perform such other functions and duties of the department of finance as may from time to time be assigned by the director of finance.”

“(b) As long as the Constitution so requires, all stationery, printing, paper and fuel used in the legislative and other departments of the government shall be furnished, and the printing, binding and distribution of the laws, journals, departmental reports and all other printing, binding and repairing and furnishing the halls and rooms used for the meetings of the legislature and its committees shall be performed under contract, to be given to the lowest responsible bidder below a maximum price, under such regulations as have been or may be prescribed by law and as may be promulgated by the director of finance. No member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the governor, the auditor and the treasurer. All contracts not required to be approved by a named officer or officers by the Constitution shall be subject to the approval of the director of finance, who may, however, provide for the automatic approval thereof by compliance with the general rules or regulations promulgated by him.”

**Section 2.** Section 41-4-111 of the Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-4-111.

“The division of purchasing shall be headed by and be under the direction, supervision and control of an officer who shall be designated the purchasing agent. The purchasing agent shall be appointed by the director of finance with the approval of the governor.”

**Section 3.** Section 41-4-113 of the Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-4-113.

“Unless otherwise provided by law, when the head of any department of the state shall desire any office supplies or materials or other articles of use or necessity, written application shall be made therefor to the division of purchasing, sworn to and stating by items the articles desired and needed, showing out of what fund they are to be paid, that the articles are necessary, that the amount of the requisition is not excessive, and that no part of the same will be used except in conducting the public business. Such application shall be kept on file in the office of the division of purchasing.”

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:02 P.M.

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Act No. 89-948

S. 202—Senator Hilliard

### AN ACT

To provide for uniform federal lien registration; to provide for the registration of federal tax liens and other liens; to provide for the place of filing; to provide for the duties of the filing officer; to provide for filing, indexing and other fees payable to the filing officer; to provide for severability of the provisions of this act; to provide for the repeal of Section 35-11-40 and Section 35-11-41, Code of Alabama 1975, relating to filing of notices of tax liens of the United States, and for the amendment of repeal of conflicting provisions of law; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Short Title. This act may be cited as the “Alabama Uniform Federal Lien Registration Act.”

**Section 2.** Scope. This act applies only to federal tax liens and to other federal liens notices of which under any act of congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens.

**Section 3.** Place of Filing.

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this act.

(b) Notices of federal liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the judge of probate of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as those entities are defined in the internal revenue laws of the United States, in the office of the secretary of state;

(2) If the person against whose interest the lien applies is a trust that is not covered by subdivision (1), in the office of the secretary of state;

(3) If the person against whose interest the lien applies is the estate of a decedent, in the office of the judge of probate of the county in the courts of which the estate is being administered;

(4) In all other cases, in the office of the judge of probate of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

**Section 4.** Execution of Notices and Certificates. Certification of notices of liens, certificates, or other notices affecting federal liens by the secretary of the treasury of the United States or his delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed, and no other attestation, certification, or acknowledgement is necessary.

**Section 5.** Duties of Filing Officer.

(a) If a notice of a federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented for filing, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of

Section 7-9-403 (4) of the Uniform Commercial Code, as if the notice were a financing statement within the meaning of that Code.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the filing officer for filing, the filing officer shall:

(1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) When the filing officer is the secretary of state, the secretary of state shall issue a filing officer's certificate upon the request of any person. When the filing officer is the probate judge, the probate judge may issue a filing officer's certificate upon the request of any person. The certificate shall show whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this act or Sections 35-11-40 and 35-11-41, Code of Alabama 1975, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate shall be the same as the then applicable uniform fee for obtaining information from the filing officer pursuant to Section 7-9-407 of the Uniform Commercial Code. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee that is the same as the then applicable uniform fee for obtaining copies from the filing officer pursuant to Section 7-9-407 of the Uniform Commercial Code.

**Section 6.** Fees. The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:

(1) For a lien on real estate, the same as the then applicable uniform fee for filing and indexing financing statements pursuant to Section 7-9-403 of the Uniform Commercial Code;

(2) For a lien on tangible and intangible personal property, the same as the then applicable uniform fee for filing and indexing financing statements established by Section 7-9-403 of the Uniform Commercial Code;

(3) For a certificate of discharge or subordination, the same as the then applicable uniform fee for filing and indexing termination statements pursuant to Section 7-9-404 of the Uniform Commercial Code;

(4) For all other notices, including a certificate of release or nonattachment, the same as the then applicable uniform fee for filing and indexing termination statements pursuant to Section 7-9-404 of the Uniform Commercial Code.

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

**Section 7.** Uniformity of Application and Construction. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

**Section 8.** Severability. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** Repeal. Sections 35-11-40 and 35-11-41, Code of Alabama 1975, are hereby repealed, except as to filings made thereunder prior to the time this act becomes effective, as to which filings said sections shall remain in effect; and all other laws or parts of laws that conflict with this act are hereby amended or repealed to the extent of such conflict as necessary to permit the full effectiveness of this act.

**Section 10.** Time of Taking Effect. This act shall become effective on January 1, 1990.

Approved May 19, 1989

Time: 6:03 P.M.

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Act No. 89-949

S. 304—Senator Mitchem

### AN ACT

To provide for cost-of-living increases in the retirement benefits of retired employees of certain public hospitals and related facilities; to provide that the granting of such increases shall be at the option of the county commission of the county in which such hospital or facility existed and the cost thereof shall be paid by such county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of any county, by resolution duly adopted to conform to rules of the board of control of the employees' retirement system of Alabama, may elect to provide any heretofore or hereafter authorized cost-of-living increases in the retirement benefits paid by the employees' retirement system of Alabama to retirees of any public hospital or related facility which

heretofore existed in the county, but which is now defunct, dissolved, transferred, reincorporated, consolidated with another public or quasi-public organization, or for any other reason is not participating in the employees' retirement system. For purposes of this act, the county shall be deemed to have been the employer of such retirees of the public hospital or related facility and shall provide the funds necessary to pay the increase in retirement allowances described in this section.

**Section 2.** The board of control of the employees' retirement system of Alabama shall determine annually the amount required to pay the cost of the increased allowances as provided under Section 1 of this act and shall notify the county of the amount required to be paid to the employees' retirement system. Such amounts shall be paid monthly or as designated by the board of control to the employees' retirement system of Alabama by the county providing such increases under Section 1 of this act.

**Section 3.** The board of control of the employees' retirement system of Alabama shall administer all the benefits provided by this act under such rules and regulations as the said board of control may adopt, not inconsistent with this act.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This act shall become effective on October 1, 1989.

Approved May 19, 1989

Time: 6:04 P.M.

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Act No. 89-950

S. 311—Senators Bedford, Preuitt, Denton,  
Drinkard, Bailey, Bennett,  
Manley, Amari and Hale

## AN ACT

To amend section 13A-12-250, Code of Alabama 1975, which imposes an additional penalty for the sale of illegal drugs on or near a school campus, so as to provide for an additional penalty for a sale within three miles of a school campus.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 13A-12-250, Code of Alabama 1975, is hereby amended to read as follows:

“§13A-12-250.

“In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was on the campus or within a three-mile radius of the campus boundaries of any public or private school, college, university or other educational institution in this state.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:05 P.M.

Act No. 89-951

S. 312—Senators Bedford, Preuitt, Denton,  
Drinkard, Bailey, Bennett,  
Manley, Amari and Hale

## AN ACT

To impose an additional penalty for the sale of illegal drugs within three miles of a public housing project.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was within a three-mile radius of a public housing project owned by a housing authority.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:06 P.M.

Act No. 89-952

S. 321—Senator Manley

## AN ACT

To require county governing bodies to establish precincts based on clearly visible, definable and observable physical boundaries based on U.S. Census Bureau criteria not later than June 1, 1989; to provide for participation by Alabama in programs of the Census Bureau for census data for purposes of reapportionment; to define terms; to require the counties to provide and maintain maps of said precincts to the probate judge, board of registrars and the Joint Legislative Task Force on Reapportionment; to provide for the designation of places of voting; to require the certification of lists of eligible voters by the probate judge; to provide for boxes and machines for elections as may be supplemented by the provisions of any local election laws or by the electronic vote counting statutes; to provide for the posting of boundaries of precincts and voting places and for the changing of precinct boundaries and changes in places of voting; to provide that the Reapportionment Task Force shall be the official state liaison between the state, the counties and the U. S. Census Bureau for purposes of implementing the provisions of this act, to require cooperation by all county and state agencies and officials with the Reapportionment Task Force; to prescribe penalty for failure to comply with this act; to specifically supersede and repeal Sections 17-5-1 through 17-5-13, Code of Alabama 1975, effective June 1, 1989; and to state specifically that the provisions of this act shall have no effect on the conduct of municipal elections or on the general or local municipal election statutes in this state.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is the purpose of this act to provide for participation by the State of Alabama in programs of the Bureau of the Census of the United States Department of Commerce which provide for furnishing census information to the states for purposes of reapportionment, pursuant to federal laws for that purpose. It is further the purpose of this act to reduce voter confusion and facilitate the election process in Alabama.

**Section 2.** For purposes of this act, the following terms shall have the definitions ascribed to them:

(a) "Precinct" means a geographical subdivision of a county having clearly visible, definable and observable physical boundaries which are based upon criteria established and recognized by the Bureau of the Census of the United States Department of Commerce for purposes of defining census blocks for its decennial census. A "precinct" shall be the smallest geographical area for purposes of holding national, state or county-wide elections. A "precinct" is also sometimes referred to as a "voting district" by the Census Bureau and other agencies.

(b) "Census Bureau" means the Bureau of the Census of the United States Department of Commerce, or any successor bureau or department which conducts an official decennial census of the United States.

(c) "Task Force" or "Reapportionment Task Force" means the Joint Legislative Task Force on Reapportionment.

(d) "Electronic Vote Counting Statutes" means Sections 17-24-1 through 17-24-11, Code of Alabama 1975, or any rule or regulation adopted pursuant thereto, or any subsequent statute providing county governing bodies with methods of electronic vote tabulations for election purposes.

**Section 3.** (a) The governing body of each county shall establish precincts, define the territorial limits for which each precinct is established, prescribe their boundaries, and designate the precincts. The governing body of each county shall, by resolution, adopt the establishment and boundaries of each precinct in accordance with the timetable as set forth herein.

(b) Each precinct shall be a contiguous, compact area having clearly defined and clearly observable boundaries coinciding with visible features readily distinguishable on the ground such as designated highways, roads, streets, or rivers or be coterminous with a county boundary.

(c) Each county governing body shall provide and maintain at all times a suitable map showing the current geographical boundaries with designation of precincts and a legal description of the geographical boundaries of each precinct. Each county governing body shall send a copy of each map, with description attached, to the county board of registrars, the probate judge and the Reapportionment Task Force. All features, names, titles, and symbols on the map shall be clearly shown and legible. Each map sheet shall indicate the date of the base map or the date of last revision.

(d) (1) In complying with the provisions of this section for the establishment of precincts and the prescription of their boundaries, each county governing body and the board of registrars shall coordinate with the Reapportionment Task Force or their designees, pursuant to their authority to submit a plan for census data for reapportionment under the provisions of Section 199 of the state constitution, and shall adopt or adjust precinct boundaries as may be necessary to comply with this section.

(2) Each county governing body shall by resolution adopt a proposal for the establishment or adjustment of precinct boundaries, in compliance with this section, no later than June 1, 1989, provided that any establishment of a precinct or adjustment of a precinct boundary to comply with this section shall be effective for the following purposes at the following times:

(i) Not later than January 1, 1990, for the purpose of establishing block boundaries for the 1990 federal decennial census.

(ii) Not later than April 1, 1991, for all other election purposes.

**Section 4.** (a) Except as may be provided further by local election laws or by the electronic vote counting statutes, the counties in this state, as divided pursuant to this act into election precincts and the boundaries of such precincts shall so remain until changed by order of the county governing body, but the county governing body, at its first regular meeting in March in each even-numbered year beginning 1990, shall subdivide any election precinct in which there are more than 300 qualified voters and paper ballots are used or in which there are more than 600 qualified voters and voting machines are used into voting districts or shall divide alphabetically the list of qualified voters in such precincts into groups and assign each qualified voter a designated voting place and a designated box or voting machine in such precinct so as to provide a box for every person legally entitled to vote at which not more than 300 paper ballots will be cast or a machine at which not more than 600 votes by voting machines will be cast.

(b) Except as may be provided further by local election laws or by the electronic vote counting statutes, the county governing body, at its first regular meeting in March in each even-numbered year beginning in 1990, shall in their respective counties examine the registration and official list of voters as the same is on file in the office of the judge of probate of said county, and if it shall appear from such examination and from other available sources of information that there is in any election precinct as constituted pursuant to this act in which paper ballots are used more than 300 legal voters, or that there is in any election precinct as constituted pursuant to this act in which voting machines are used more than 600 legal voters, they shall immediately either divide said precinct into voting districts so that no one district shall contain over 300 legal voters where paper ballots are used or 600 legal voters where voting machines are used or established two or more places or provide additional boxes or voting machines at established polling places in such precinct and shall separate the list of qualified registered voters in said precinct, as shown by the list on file in the office of the probate judge in said county, into groups in alphabetical order so that no group in a precinct in which paper ballots are used shall contain more than 300 qualified registered voters or in a precinct where voting machines are used more than 600 qualified registered voters and shall designate the place and box or machine in such precinct at which each qualified voter shall cast his ballot.

(c) Whenever any election precinct has been subdivided into voting districts, pursuant to subsections (a) or (b) hereof, the county governing body making such subdivision shall immediately cause a description of the boundaries of said voting districts to be filed in

the office of the judge of probate and shall post a copy thereof at the county courthouse.

(d) Such precincts shall be named and designated by the county governing body numerically or alphabetically or by a combination thereof in a manner that will be uniform statewide as determined by the association of county commissions and approved by the Reapportionment Task Force.

**Section 5.** (a) Except as may be provided further by local election laws or by the electronic vote counting statutes, the county governing bodies shall designate the places of holding elections in the precincts established hereunder, and, whenever the county has alphabetically divided the list of registered qualified voters of a precinct into groups, it shall designate not only the voting place but also the number of boxes or voting machines at each voting place in the precinct, being sure that it designates a box or machine for each group of qualified voters. The county governing body is hereby specifically authorized to provide for installing as many boxes or machines as are needed in each precinct, and such boxes or machines may be installed at one designated voting place or there may be more than one voting place designated and such number of boxes or machines installed at each place as needed to provide for the voters authorized to vote at each such place. The county governing body shall file with the judge of probate of the county along with a copy of its order fixing the boundaries of a precinct, the names of places designated for voting, indicating in those precincts in which the voters have been alphabetically divided into groups the voting places and boxes or voting machine at which each alphabetical group shall vote and shall also post such list of voting places at the county courthouse.

(b) The judge of probate, within five days after the county governing body of any county files with him the boundaries of such election precincts and the names of the voting places therein, shall give notice of the same by publishing the same in some newspaper of general circulation published in said county and shall have the same posted by the sheriff at the courthouse and at two public places in said election district of such precinct. Such notice must describe such election precincts by its number and must specify the place therein where elections are to be held.

(c) Where election precincts have been subdivided into voting districts hereunder, no voter in any election held thereafter shall vote at any place other than the voting district in which said voter is at such time registered as a qualified elector; provided further, however, that any county may, by local law, establish voting centers by combining voters from two or more precincts in order to create a voting center in order to facilitate, or reduce costs, for elections.

(d) Except as may be provided further by local election laws or by the electronic vote counting statutes, whenever places of voting are once designated and established as required by this act, the voting places for precincts shall not be changed within three months before an election is to be held; and, whenever the boundaries of election precincts are changed, the county governing body shall forthwith designate and establish at least one voting place for every 300, or 600 where voting machines are used, voters in each election precinct so created. Places of voting shall be the same for all elections, whether primary, general or special, or federal, state, district, or county.

(e) The courthouse is the place holding elections in the precinct in which it is situated unless another place for that purpose is designated by the county governing body. Elections must be held at such places in the other precincts as may be designated hereafter by the county governing body.

**Section 6.** The judge of probate shall prepare a separate, correct alphabetical list of all the names of qualified electors or voters for each voting place from the list compiled and filed in the probate office, pursuant to sections 17-4-129 and 17-4-130, for all elections hereafter held in this state, whether primary, general or special, or federal, state, district, county or municipal, and shall certify separately for each voting place, to the election officials appointed for holding election, each of which election official shall be an elector qualified to vote only in the box at the place for which he or she is chosen to serve, a list containing only the names of the voters or qualified electors entitled to vote at such voting place; provided, that as regards municipal elections, the mayor of the city or town shall cause to be made and certified such lists; provided further, that nothing in this section shall prevent a series of lists of names of voters or electors of other voting places from being certified by the judge of probate on the same general list for information. A vote cast at a place other than the voting place at which the voter is entitled to vote shall be illegal.

**Section 7.** (a) The county governing body shall have sole authority to change the configuration, boundaries, or designation of an election precinct. Any change so determined shall be adopted by resolution of the county governing body.

(b) After June 1, 1989, a county governing body shall only change a precinct by dividing the precinct into two or more precincts except when in order to make it more convenient for voters to vote, or to facilitate the administration of the election process, or to accomplish reapportionment, it becomes necessary to consolidate all or part of a precinct with adjacent precincts, a part or parts may be consolidated.

(c) Except as may be provided further by local election laws or by the electronic vote counting statutes, whenever at any general or primary election in any election precinct over 300 votes shall have been cast by paper ballot or 600 voting machines, the county governing body shall readjust the boundary lines of said election precincts or shall separate the list of qualified registered voters in such precinct into alphabetical groups of not more than 300 when paper ballots are used or 600 when voting machines are used and may divide or consolidate any number of precincts and resubdivide the same in order that not more than 300 voters shall be contained in any one precinct and authorized to vote at one box when paper ballots are used, or not more than 600 voters shall be contained in any one precinct in which voting machines are used and voters are authorized to vote at only one place.

(d) In changing any precinct boundary, the county governing body shall comply with the requirements of section 3 hereof.

(e) Within thirty days after the adoption of any resolution as provided in this section, the county governing body shall send to the Reapportionment Task Force a certified copy of the resolution and a copy of a map showing the new precinct boundaries together with a written description of such boundaries.

**Section 8.** (a) The Reapportionment Task Force, or its designees, shall serve as the state liaison with the United States Bureau of the Census on all matters related to the tabulation of population and other census information for purposes of reapportionment. The Reapportionment Task Force may submit to the bureau, on behalf of the state, a plan identifying the geographic areas for which specific tabulations of population or other census information are desired for reapportionment purposes, in accordance with criteria established by the United States Secretary of Commerce, and may supply such other information as may be required by the census bureau or the Secretary of Commerce in order to furnish the state such tabulations.

(b) The Reapportionment Task Force shall furnish the county governing bodies and the county boards of registrars such information and assistance as is necessary in order to enable them to comply timely with the census bureau requirements.

**Section 9.** All state and county agencies and officials shall cooperate with the Reapportionment Task Force in carrying out the purposes of this act and shall cooperate with the Reapportionment Task Force in the development of all information, maps, and other data as is needed to comply with requirements of the census bureau. Failure to comply with the provisions of this act shall be a Class B misdemeanor punishable as prescribed by law.

**Section 10.** The provisions of this act shall have no effect on the conduct of municipal elections of this state. It is further specifically provided that nothing herein contained shall be construed to require any municipality to establish single or multiple representation districts for the election of municipal officials in this state. It is further provided that all general or local provisions of law regarding the conduct of municipal elections are hereby expressly preserved.

**Section 11.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of law in conflict herewith are hereby repealed, and, effective June 1, 1989, the provisions of this act shall specifically repeal and supersede Sections 17-5-1 through 17-5-13, Code of Alabama 1975.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:07 P.M.

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Act No. 89-953

S. 389—Senator Hilliard

### AN ACT

To prohibit students from carrying electronic communication devices while in school and provides for penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) No board of education shall permit any pupil to carry a pocket pager or electronic communication device in school except for health or other extraordinary needs upon approval by the board of education.

(b) Any pupil found in violation of the provisions of this act shall be subject to suspension or expulsion by the board of education.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:08 P.M.



Act No. 89-954

S. 394—Senator Bedford

## AN ACT

To authorize municipalities to adopt a procedure for the issuance of a summons and complaint for violations of certain municipal ordinances, to provide for dispositions of such violations, and to establish additional penalties for offenders failing to appear in court.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** By ordinance, the governing body of any municipality may authorize any law enforcement officer of a municipality or any law enforcement officer of the state, in lieu of placing persons under custodial arrest, to issue a summons and complaint to any person charged with violating any municipal littering ordinance; municipal ordinance which prohibits animals from running at large, which shall include leash laws and rabies control laws; or any Class C misdemeanor not involving violence, threat of violence or alcohol or drugs.

**Section 2.** Such summons and complaint shall be on a form approved by the governing body of the municipality and shall contain the name of the court; the name of the defendant; a description of the offense, including the municipal ordinance number; the date and time of the offense; the place of the offense; signature of the officer issuing the citation; the scheduled court date and time; an explanation to the person cited of the ways in which he may settle his case; and a signature block for the magistrate to sign upon the officer's oath and affirmation given prior to trial.

**Section 3.** Whenever any person is arrested for a violation of any of the enumerated offenses, the arresting officer shall take the name and address of such person and any other identifying information and issue a summons and complaint to the person charged. Such officer shall release the person from custody upon his written promise to appear in court at the designated time and place as evidenced by his signature on the summons and complaint, without any condition relating to the deposit of security.

**Section 4.** If any person refuses to give a written recognizance to appear by placing his signature on the summons and complaint, the officer shall take that person into custody and bring him before any officer or official who is authorized to approve bond.

**Section 5.** Before implementation of the summons and complaint procedure, the governing body shall adopt a schedule of fines for first, second and subsequent offenders of the alleged violation of

such ordinances, which shall be posted in a place conspicuous to the public within the court clerk's office and the police department.

**Section 6.** (a) When a person is charged with one of the enumerated ordinance violations, he may elect to appear before the municipal court magistrate, or where the municipal court has been abolished, the district court magistrate, within the time specified in the summons and complaint, and upon entering a plea of guilty, pay the fine and court costs. A plea of guilty shall only be accepted by the magistrate after the defendant has executed a Notice and Waiver of Rights form.

(b) In the alternative, the defendant shall have the option of depositing the required bail, and upon a plea of not guilty, shall be entitled to a trial as authorized by law.

**Section 7.** The court clerk or magistrate shall receive and issue receipts for cash bail from persons who wish to be heard in court; enter the time of their appearance on the court docket; and notify the arresting officer and witnesses, if any, to be present.

**Section 8.** If the defendant fails to appear as specified in the summons and complaint, the judge or magistrate having jurisdiction of the offense may issue a warrant for his arrest commanding that he be brought before the court to answer the charge contained on the summons and complaint. In addition, any person who willfully violates his written promise or bond to appear, given in accordance with this act, shall be guilty of the separate offense of failing to appear, a misdemeanor, regardless of the disposition of the charge upon which he was originally arrested.

**Section 9.** All fines and forfeitures collected upon a conviction or upon the forfeiture of bail of any person charged with a violation of such ordinances, shall be remitted to the general fund of the municipality; provided, however, fines, forfeitures and court costs assessed and collected in district court shall be distributed as now provided by law.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:09 P.M.

Act No. 89-955

S. 429—Senators Dial and Ellis

## AN ACT

To divide the Eighteenth Judicial Circuit into divisions, the Eastern Division to consist of Clay and Coosa Counties, and the Western Division to consist of Shelby County; to provide that one Circuit Judge shall reside in the Eastern Division, and two Circuit Judges shall reside in the Western Division; to provide that all three Circuit Judges will be elected within the Circuit at large; and to provide an effective date; to create an additional circuit judgeship for the Eighteenth Judicial Circuit to take effect in the future; to create an additional district judgeship to serve Shelby County; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Eighteenth Judicial Circuit shall be divided into two divisions. One division shall be the Eastern Division, consisting of Clay County and Coosa County. Another shall be the Western Division, consisting of Shelby County.

**Section 2.** Of the Circuit Judges provided by law for the Eighteenth Judicial Circuit, Circuit Judge Place Number one shall be a resident of the Eastern Division, and all remaining Circuit Judges shall be residents of the Western Division. Each circuit judge must have resided in the Division in which he serves for at least twelve (12) months preceding his election or appointment, and must reside in such division during his term of office.

**Section 3.** All Circuit Judges, regardless of the division, shall continue to be elected by the qualified electors of the Circuit at large.

**Section 4.** Current Case assignments shall be unaffected by the provisions of this Act.

**Section 5.** Of the three Circuit Judges holding office in the Eighteenth Judicial Circuit as of the effective date of this act, the Circuit Judge Place Number 1 shall become and continue to be the Circuit Judge of the Eastern Division and the two Circuit Judges Place Number 2 and Place Number 3 shall become and continue to be the Circuit Judges of the Western Division. The terms of office of the Judges of the Eighteenth Judicial Circuit, holding office as of the effective date of this act, shall be unaffected by the passage of this act.

**Section 6.** There is hereby created in the Eighteenth Judicial Circuit, effective January, 1993, Circuit Judgeship Place No. 4, which shall be a Circuit Judge of the Western Division. Such Circuit Judge shall be elected in the same manner as are all other Circuit Judges, and shall be entitled to the same salary, salary supplements, expense allowance, office, clerical personnel, and other benefits as are provided

for all other Circuit Judges in the Eighteenth Judicial Circuit. The office of Circuit Judge Place No. 4 hereby created shall be filled in the general election of 1992, and the person elected shall assume the office in January, 1993.

**Section 7.** (a) There is hereby created, effective January 14, 1991, and thereafter, the office of District Judge for Shelby County Place No. 2. Such a District Judge shall be elected in the same manner hereafter as are all other district Judges. The office of District Judge for Shelby County Place No. 2 hereby created shall be filled in the general election of 1990, and the person elected shall assume the office of January 14, 1991.

(b) The judge of the district judgeship place number two of Shelby County shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations and penalties that other district judges may be subject to exercise and perform. The district judge place number two of Shelby County shall receive the same salary and supplements, payable in the same manner as the district judge place number one for Shelby County.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** Except where otherwise specifically provided herein, this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:10 P.M.

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Act No. 89-956

S. 484—Senator Ellis

### AN ACT

Relating to Shelby County; to further amend Section 7 of Act No. 248, H. 872 of the 1975 Regular Session (Acts 1975, p. 778), as amended, relating to the installation and maintenance of an improved system of recording title to property and other documents recorded in the office of the Judge of Probate and the collection and disposition of a special index fee therefor, so as to further provide for such fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 7 of Act No. 248, H. 872 of the 1975 Regular Session (Acts 1975, p. 778), as amended, is hereby further amended to read as follows:

“Section 7. Special Recording Fees. Thirty days after the date this Act becomes applicable to Shelby County, a special index fee

of \$3.00 shall be paid to the county, and collected by its Judge of Probate, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said Judge of Probate and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county, and, on and after such date, no such instrument shall be received for record in the office of said Judge of Probate unless the said special index fee of \$3.00 is paid thereon. Said special index fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county. All special index fees so collected shall be covered into the county treasury, and shall be credited to the account of a special fund to be expended for payment of initial installation costs and the cost as needed of additional equipment that may be added to the probate office from time to time. Provided, however, that any sums so collected in excess of those needed to implement the provisions of this act may, in the sole discretion of the Judge of Probate, be expended for the operations of the office of the Judge of Probate."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:11 P.M.

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Act No. 89-957

S. 574—Senator Drinkard

### AN ACT

Relating to Etowah County; levying an additional ad valorem tax in the county, pursuant to Constitutional Amendment No. 373, Constitution of 1901, as amended, for school district capital improvement purposes and providing for an appropriate referendum; and providing for the discontinuance of such tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Etowah County, in addition to any and all other taxes heretofore or hereafter levied, the Etowah County Commission is hereby authorized to levy an additional ad valorem tax of seven (7) mills, on each dollar of taxable property in the Etowah County school district effective upon ratification by the qualified electors, at a referendum called for the purpose, within ninety (90) days after passage of this act.

**Section 2.** The said county commission shall collect the said additional ad valorem taxes in the same manner and at the same period as are all other existing ad valorem taxes for the Etowah County school district pursuant to Amendment No. 373 to the Constitution of 1901.

**Section 3.** The said county commission shall deposit the said net tax revenues in the county general fund earmarked for the Etowah County school district for capital improvements only.

**Section 4.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors who reside in the Etowah County school district and who vote thereon at a referendum held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on local constitutional amendments, and shall be held as provided in Section 1. Notice of the election shall be given as in the other county elections under the general applicable laws of this state and said Amendment No. 373. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the 1989 Regular Session of the Legislature, which authorizes the Etowah County Commission to impose an ad valorem tax in an amount of seven (7) mills on each dollar of taxable property? Yes ( ) No ( ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately, except as otherwise herein provided. If a majority of the votes cast are in the negative, the act shall have no effect. The judge of probate for Etowah County shall certify the results of the election to the Secretary of State and to the state revenue department after the returns have been certified.

**Section 5.** The provisions of this act are passed pursuant to the provisions of Amendment No. 373 of the Constitution of the State of Alabama 1901, which provides on and after October 1, 1979, any county, municipality or other taxing authority may at any time increase the rate at which any ad valorem tax is levied above the limit otherwise provided in this Constitution; provided, however, that the proposed increase to be made pursuant to this subsection shall have been: (1) proposed by the governing body of the taxing authority after a public hearing on such proposal; (2) thereafter approved by an act of the legislature; and (3) subsequently approved by a majority vote of the qualified electors residing in the taxing authority who vote on the proposal at a special election called and held in accordance with the law governing special elections.

**Section 6.** The provisions of this act shall become null and void ten years after its effective date.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:12 P.M.

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Act No. 89-958

S. 674—Senator Denton

### AN ACT

To authorize the governing body of Tuscumbia to establish an Historic Preservation Commission and an Architectural Review Board in order to preserve and protect buildings, sites, structures, areas and districts of historic significance, architectural, archaeological and aesthetic heritage within Tuscumbia, and to promote these attractions to tourists and visitors; to provide for the membership, the qualifications and terms, the powers, duties and appointments to the Commission and Board; to prescribe that certain reporting shall be made to the Alabama Historical Commission and to the local governing body; to provide for the reimbursement of expenses of members, the rules of procedure for operations and notice of meetings; to provide that the Commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes; to prescribe that certain restrictions shall be placed on designated properties, and provide exceptions thereto; and to provide for appeals and other judicial processes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The purposes of this act are to provide for the establishment of an Historic Preservation Commission and Architectural Review Board, and to promote the educational, cultural, economic and general welfare of Tuscumbia through the preservation and protection of buildings, sites, structures, areas and districts of historic significance and interest; through the preservation and enhancement of the national, state and local historic, architectural, archaeological and aesthetic heritage found in Tuscumbia's historic and aesthetic attraction to tourists and visitors.

**Section 2.** The governing body of Tuscumbia electing to enact an ordinance, pursuant to this act, to provide for the creation, protection and enhancement of historic properties or historic districts, shall establish an Historic Preservation Commission, hereinafter sometimes called the Commission, and may establish one or more Architectural Review Boards, hereinafter sometimes called the Board, to carry out the purposes and responsibilities of that ordinance.

**Section 3.** (a) An Historic Preservation Commission created by an ordinance enacted pursuant to this act shall be composed of not less than seven (7) members, who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law, or who shall be residents of an historic district designated pursuant to that ordinance. A majority of the members of the Commission shall be bona fide residents of the territorial jurisdiction of Tuscumbia. Not more than one-fifth ( $1/5$ ) of the members of the Commission shall be public officials.

(b) Members of the Commission shall be nominated by the chief executive officer of Tuscumbia and appointed by the legislative body of Tuscumbia. Nomination and appointment of members of the Commission shall be made so as to ensure that the Commission will be composed of persons with as much of the training and experience specified in Section 3(a) of this act as is possible.

(c) Except for the original members of the Commission, members of the Commission shall serve three (3) year terms and shall be appointed in such a manner so as to serve overlapping terms. Two (2) of the original members of the Commission shall be appointed to serve one (1) year terms, two (2) of the original members of the Commission shall be appointed to serve two (2) year terms, and the remainder of the original members of the Commission shall be appointed to serve three (3) year terms. Members of the Commission may be reappointed.

(d) Members of the Commission may be removed for cause by the legislative body of Tuscumbia.

(e) Vacancies on the Commission shall be filled by persons nominated by the chief executive officer of Tuscumbia and appointed by the legislative body of Tuscumbia. Such appointments shall be for the unexpired term of the member replaced.

(f) Members of the Commission shall elect a chairman and a vice-chairman and such other officers as the members deem necessary. The Commission shall adopt rules of procedure and bylaws to govern its operations and shall communicate those rules of procedure and bylaws to the elected officials of Tuscumbia. The rules of procedure and bylaws of the Commission shall specify what number of members of the Commission constitutes a quorum.

(g) Members of the Commission shall serve without compensation but may be reimbursed for expenses incurred on behalf of the Commission in accordance with the rules and regulations for the reimbursement of expenses adopted by the Commission.

(h) The Commission may employ such professional, technical, office and other personnel as may be necessary to carry out the



purposes and responsibilities of the ordinance enacted pursuant to this act.

(i) The Commission shall prepare and file with the elected officials of Tuscumbia and with the Alabama Historical Commission an annual report of its activities.

(j) Meetings of the Commission shall be public meetings and shall be held at times and places and pursuant to such notices specified in the ordinance creating the Commission.

**Section 4.** The Commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes. The Commission shall have tax exempt status, and the properties of the Commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

**Section 5.** The Commission created by an ordinance enacted pursuant to this act shall be authorized to:

(1) Preserve and protect buildings, structures and sites of historic and architectural value in the historic districts designated pursuant to that ordinance;

(2) Prepare a survey of all property within the territorial jurisdiction of Tuscumbia;

(3) Recommend to Tuscumbia buildings, structures, sites and districts for designation as historic properties of districts;

(4) Restore and preserve any historic properties acquired by Tuscumbia or acquired by the Commission;

(5) Promote acquisition of facade and conservation easements by Tuscumbia or by the Commission;

(6) Develop and conduct educational programs on historic projects and districts designated pursuant to the ordinance and on historic preservation subjects;

(7) Make such investigations and studies of matters relating to historic preservation as Tuscumbia or the Commission deems necessary and appropriate for the purposes of this act;

(8) Apply for funds to carry out the purposes and responsibilities of the Commission from municipal, county, state, federal and private agencies and sources;

(9) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in carrying out the purposes and responsibilities of the Commission;

(10) Investigate, survey and process nominations of properties to the National Register of Historic Places;

(11) Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;

(12) Contract with other municipal, county, state, federal and private agencies and organizations to perform historic preservation related functions;

(13) Exercise such further powers as the Commission may deem reasonably necessary and proper to carry out the purposes, responsibilities and powers of the Commission.

**Section 6.** (a) On recommendation of the Historic Preservation Commission, the City of Tuscumbia may designate historic properties and historic districts within the territorial jurisdiction of Tuscumbia.

(b) The Commission shall not recommend designation of an historic property or historic district unless such recommendation is based on finding of a survey of such property or district conducted by or for the Commission in accordance with the rules and regulations of the Alabama Historical Commission.

(c) The Commission shall not recommend designation of an historic property or historic district unless it finds that the building, structures, site or district is identified with or represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation or has had significant relationship with the life of an historic person or event, representing a major aspect of the history of the locality, region, state or nation, or is a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation. In the case of an individual building or structure, the Commission may recommend designation as an historic property if the Commission finds that the building or structure is an example of an architectural style, or combination of architectural styles, which is representative of Tuscumbia or which is unique to Tuscumbia. In the case of a district, the Commission may recommend designation as an historic district if the Commission finds that the district contains vernacular structures which contribute to an overall character and sense of place which is representative of Tuscumbia.

**Section 7.** (a) Before the Commission shall recommend the designation of an historic property or historic district, it shall hold a public hearing on the proposed recommendation of historic designation to be held at a time and place, and pursuant to such notices specified in the ordinance creating the Commission.

(b) In addition to the notice of the public hearing required pursuant to subsection (a) of this section, all owners of property to be included in the proposed historic designation, as such owners are identified in the relevant property tax rolls, shall be notified by public notice of the public hearing to be held by the Commission on the proposed recommendation of historic designation.

**Section 8.** Upon the designation of any historic property or historic district by Tuscumbia pursuant to an ordinance enacted pursuant to this act, the Historic Preservation Commission shall give notice in writing of that designation to all agencies of Tuscumbia and to all owners of property included in the historic designation.

**Section 9.** (a) No change in the exterior appearance of an historic property or any building, structure or site within an historic district may be made, and no historic property may be demolished, and no building or structure in an historic district may be erected or demolished unless and until a certificate of appropriateness for such change, erection or demolition is approved by the Commission. Signs shall be considered as structures and no sign on an historic property or in an historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the Commission. The requirement of a certificate of appropriateness shall apply to public property which has been designated as an historic property or which is contained in an historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts. Demolition by neglect and the failure to maintain an historic property or a structure in an historic district shall constitute a change for which a certificate of appropriateness is necessary. The Commission may include selection of paint colors as changes requiring a certificate of appropriateness. The painting of originally unpainted surfaces shall require a certificate of appropriateness.

(b) The Commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness, and no certificate of appropriateness shall be approved unless an application for a certificate of appropriateness is submitted to the Commission accompanied by such drawings, photographs and plans, as may be required by the Commission.

(c) The Commission shall adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness.

(d) Applications for certificates of appropriateness shall be considered by the Commission at public meetings, held at times and

places and pursuant to such notices as are specified in the ordinance creating the Commission.

(e) The commission may adopt an expedited procedure for approval of routine maintenance to historic properties, or to buildings or structures in historic districts. Such expedited procedure may waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting.

(f) The Commission shall keep a record of all applications for certificates of appropriateness and requests for approval of routine maintenance and all of its proceedings.

**Section 10.** Any person having a request for a certificate of appropriateness denied by the Historic Preservation Commission, or Architectural Review Board as hereinafter provided, may appeal such denial to the circuit court of Colbert County.

**Section 11.** (a) The Commission shall approve an application and issue a certificate of appropriateness if it finds that the proposed change, erection or demolition conforms to the general design standards established by the Commission, is compatible with the character of the historic property or historic district and does not detract from the value of the historic property or historic district. In making this determination, the Commission shall consider, in addition to any other pertinent factors, the historic and architectural features involved and the proposed change thereto, and the relationship thereof, to the exterior architectural style, and pertinent features of other structures in the immediate neighborhood.

(b) In its review of applications for certificate of appropriateness, the Commission shall not consider interior changes or use having no effect on the exterior of a building or structure.

(c) In the event the Commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons thereof, in writing, to the applicant. The applicant may make modifications to its plans and resubmit the application for reconsideration at any time after doing so.

(d) In cases where the application is for a change in the exterior of the building or structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such case, no building permit shall be issued.

**Section 12.** The Commission, or Tuscumbia, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any change in the exterior of a

building or structure which is either an historic property or which is contained in an historic district, except in compliance with the provisions of an ordinance adopted in conformity with this act, or to prevent any illegal act or conduct with respect to such historic property, or historic district, and to recover any damages which may have been caused by the violation of that ordinance.

**Section 13.** (a) Tuscumbia enacting an ordinance pursuant to this act, may elect to create an Architectural Review Board, hereinafter sometimes called the Board, to perform the duties and responsibilities of the Historic Preservation Commission in accepting, considering and approving or rejecting applications for certificates of appropriateness, as set out in Sections 9, 10, 11 and 12 of this act.

(b) If such Board is created, it shall be composed of not less than five (5) members who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law. A majority of the members of the Board shall be bona fide residents of the territorial jurisdiction of Tuscumbia. No elected public official shall serve as members of the Board. Not more than one-fifth (1/5) of the members of the Board shall be public officials.

(c) Members of the Board shall be nominated by the chief executive officer of Tuscumbia and appointed by the legislative body of Tuscumbia. Nomination and appointment of members of the Commission shall be made so that the Board will be composed of persons with as much of the training and experience specified in Section 13(b) as possible.

(d) Except for the original members of the Board, members of the Board shall serve three (3) year terms and shall be appointed in such manner as to serve overlapping terms. Two (2) of the original members of the Board shall be appointed to serve one (1) year terms and the remainder of the original members of the Board shall be appointed to serve three (3) year terms. Members of the Board may be reappointed.

(e) Members of the Board may be removed for cause by the legislative body of Tuscumbia.

(f) Vacancies on the Board shall be filled by persons nominated by the chief executive officer of Tuscumbia and appointed by the legislative body of Tuscumbia. Such appointments shall be for the unexpired term of the member replaced.

(g) Members of the Board shall elect a chairman and vice-chairman and such other officers as the members deem necessary. The Board shall adopt rules of procedure and shall communicate those rules of procedure to the chief executive officer and legislative

body of Tuscumbia creating the Board. The rules of procedure of the Board shall specify what number of members of the Board shall constitute a quorum.

(h) Members of the Board shall serve without compensation, but may be reimbursed for reasonable expenses incurred on behalf of the Board, in accordance with the rules and regulations for the reimbursement of expenses adopted by the Board.

(i) The Board may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the Board.

(j) Meetings of the Board shall be public meetings and shall be held at times and places pursuant to such notices as are specified in the ordinance creating the Board.

(k) If, in the opinion of the governing body of Tuscumbia, the work load of the Board is, or is contemplated to be excessive, the governing body of Tuscumbia may create more than one Board, and designate the historic properties, and historic districts with which each Board will be concerned, so long as each historic property and each historic district designated by Tuscumbia shall be subject to the control of only one Board. Each Board created shall have all of the powers and authority set forth in this act with respect to the historic properties and historic districts with which it is concerned.

**Section 14.** Tuscumbia may create a joint Commission and Board with other municipalities within Colbert County or with Colbert County pursuant to an ordinance enacted pursuant to this act, with all the powers granted by this act to such Commissions. Any such joint Commission and joint Board shall be subject to all of the applicable provisions of this act and the representation on such joint Commission and joint Board shall be determined by the governing bodies participating in such joint Commissions and joint Boards.

**Section 15.** No provision of this act shall be construed to require the dissolution of any historic development commission or architectural review board created by an ordinance enacted pursuant to prior laws. Any historic development commission or architectural review board created by an ordinance existing pursuant to prior laws and existing at the time of the enactment of this act shall continue in existence and shall have all of the purposes, powers, and authority set out in the ordinances creating such Commissions and Boards. Any such Commission or Board shall also have the power set forth in this act, if so provided by ordinance enacted by the governing body creating the historic development commission or architectural review board.

**Section 16.** The provisions of this act are cumulative and shall be construed with any and all other laws or parts of laws relating

to historical preservation and architectural review, except those laws in direct conflict herewith are repealed.

**Section 17.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 18.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:13 P.M.

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Act No. 89-959

S. 690—Senator Hand

### AN ACT

Relating to Baldwin County; to establish a "Baldwin County Oil and Gas Severance Tax Trust Fund" on producers of oil and gas and other hydrocarbons, plus certain income or interest; to regulate and provide for the administration of the expenditures of such trust funds by the county commission; to provide for the maximum funding of said trust fund; to specifically repeal, following the full funding of such trust fund established with respect to Baldwin County, Act No. 2120, H. 2450, Regular Session 1971 (Acts 1971, Vol. V, p. 3399), as amended, relating to Baldwin County privilege tax on persons engaged in the business of producing or severing oil or gas or other hydrocarbons from the soil or the waters, to specifically provide that this bill shall not be construed to repeal that part of Title 40, Code of Alabama 1975, as amended, which provides for the levy of certain taxes upon the production or severing oil or gas from the soil or waters of the state; and to provide for non-severability construction and an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any laws or parts of laws to the contrary notwithstanding, any annual privilege tax levied upon persons engaging in the business of producing or severing oil or gas or other hydrocarbons from the soil or waters of Baldwin County measured by the gross value of such oil or gas or other hydrocarbons and which tax is applicable only in Baldwin County and under which collections were being made on January 1, 1987, shall be continued and collected only as herein prescribed.

(a) All revenues collected from such local severance taxes, shall, beginning the first day of the month following the effective date of this act, be paid into the general fund of the county exclusively for transfer and deposit into the trust fund hereby established until the total sum of \$15,000,000 in severance tax revenues of the type

described in this act, excluding any interest income on amounts deposited therein from such total sum, has been deposited into such trust fund. Upon the deposit into said trust fund of the county general fund of a total of \$15,000,000 in such severance tax revenues, any local law authorizing or levying such tax, including, without limitation, Act No. 2120, H. 2450, Regular Session 1971 (Acts 1971, Vol. V, p. 3399), shall stand repealed and no further taxes shall be levied thereunder. Any such local oil and gas severance tax revenues in excess of such \$15,000,000 amount collected in Baldwin County after the time the total of such tax proceeds paid into such trust fund established hereby for Baldwin County shall reach \$15,000,000, shall be refunded as promptly as shall be reasonably practicable to the payers thereof. The county commission shall not be authorized to make any expenditure from any monies composing the corpus of said trust fund so long as it shall remain in existence. Said trust fund shall be designated as the "Baldwin County Oil and Gas Severance Tax Trust Fund," and is hereinafter referred to as the "trust fund."

(b) Commencing with the first year in which the trust fund provided for in this act shall receive deposits as required hereunder, and in each year thereafter, the Baldwin County Commission shall take steps to ensure that the trust fund shall retain the total severance tax revenues paid therein plus ten percent (10%) of any net income or interest generated by the investment of such severance tax revenues, which sum shall be and become a part of the corpus of the trust fund. A sum, not to exceed ninety percent (90%) of the net income or interest thereby generated from said investments, shall be distributed quarterly, semi-annually or annually, as designated by the trustees of the trust, to the general fund of Baldwin County for which the trust fund is established pursuant to this act.

(c) The county commission shall constitute the trustees of the trust, provided, however, that the said commission may in its discretion appoint one or more trustees or escrow agents for the trust, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company within or without the State of Alabama. The trustees shall invest the corpus of the trust only in direct general obligations of, or obligations the payment of the principal of and interest on which are unconditionally and irrevocably guaranteed by the United States of America. Provided, however, that notwithstanding any legal limitation that might otherwise be applicable, the trustees shall further have the authority in their discretion to invest such trust fund in certificates of deposit of any savings and loan associations or banks, whether federally or state chartered, whose principal office is located in this state, provided that such funds so invested are fully secured by pledges of securities of the type described in the immediately preceding sentence hereof.



(d) Upon the deposit into a trust fund established pursuant to this act of the total sum of \$15,000,000 in severance tax revenues of the type described in this act, excluding any interest as income in such total sum, and the consequent repeal of the local law authorizing or levying such tax, the Baldwin County Commission shall be thereafter prohibited from levying or collecting, directly or indirectly, any local county severance tax of the type described in this act that was in existence prior to January 1, 1987.

**Section 2.** It is specifically provided that this act shall not be construed to repeal or be in any way deemed amendatory of any of the provisions of Article 1 of Chapter 20 of Title 40, Code of Alabama 1975, as amended.

**Section 3.** The provisions of this act are inseparable and non-severable and if any section, clause or provision of this act shall be declared unconstitutional or invalid the entire act shall be void and be inoperative and have no effect.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:14 P.M.

Act No. 89-960

S. 701—Senator Hand

### AN ACT

Relating to Baldwin County; amending Act No. 80-497, H. 1059, 1980 Regular Session (Acts 1980, p. 769), authorizing the county commission to establish and designate historic districts in the county so as to provide further for definitions; applications and requirements for historic district and preservation district designations; enlarging designated historic district or preservation district; rescinding historic district or preservation district designation; and applications and requirements for rescission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That Act No. 89-497, H. 1059, 1980 Regular Session (Acts 1980, p. 769) is hereby amended to contain additional provisions to read in full as follows and renumber subsequent sections accordingly:

“Section 3. As used in this act, the following terms shall have the meanings or descriptions as provided herein unless the context clearly indicates otherwise:

“(1) ‘Historic district’ shall refer to any district designated as a historic district by the Baldwin County Commission pursuant to the

terms of this act. A historic district shall meet at least one of the following criteria:

“a. The district is listed on the national and/or state registers;  
or

“b. The district shall contain a significant number of buildings that are fifty (50) years or older; or

“c. The district shall contain buildings of distinct historical architectural character; or

“d. Is an area where significant personalities or events existed or occurred.

“(2) ‘Preservation district’ shall refer to any district designated as a preservation district by the Baldwin County Commission pursuant to this act. A preservation district shall meet at least one of the following criteria:

“a. The district is a geographically definable urban or rural area which contains structures or sites or a combination thereof which have a special character, aesthetic interest or value, and represent one or more period(s) of styles of architecture typical of one or more era(s) of the history of the area constituting a visibly perceptible section of the municipality or county; or

“b. The district is an area with special character, design, or aesthetic value.

“Section 4. Applicants shall meet requirements Number One (1) and one or more of the other following requirements in order to be considered for historic district designation:

“(1) At least sixty (60) percent of the district property owners, which shall also consist of at least 60% of the property, shall petition the Baldwin County Commission for a historic district designation.

“(2) The buildings or district shall already be on the state and/or national register.

“(3) The historic district shall contain buildings or sites of historic importance.

“(4) The historic district shall contain buildings or sites with distinctive stylistic aesthetic or locational character which will likely be considered historical in the future.

“(5) The historic district shall contain buildings or sites exhibiting particular skilled examples of craftsmanship and design which are or will likely be considered historical in nature.

“(6) The historic district may have recommendations for designation by any federal, state, or other recognized survey of historic sites or structures.

“Section 5. Applicants shall meet requirement Number One (1) and one or more of the other following requirements in order to be considered for preservation district designation:

“(1) At least sixty (60) percent of the district property owners, which shall also consist of at least 60% of the property, shall petition the Baldwin County Commission for a preservation district designation.

“(2) Is a geographically definable urban or rural area which contains structures or sites or a combination thereof which have a special character, aesthetic interest or value, and represent one or more period(s) of styles of architecture typical of one or more era(s) of the history of the area constituting a visibly perceptible section of the municipality or county.

“(3) Recommendation for designation by any federal, state, or other recognized survey of historic sites or structures.

“Section 6. Applicants submitted for historic district or preservation district designation need be of no particular form, but shall contain the following information:

“(1) The name, address, and telephone number of the applicant. If applicant is a group or organization, include the name of the person who is to be contacted with respect to the application.

“(2) A written description of the proposed district, including present land use and general location, and of the structures and sites within the district, their condition, appearance, etc.

“(3) A map or other graphic description of the proposed district.

“(4) The legal description of the proposed district.

“(5) The historic, architectural, or other significance of the proposed district.

“(6) A one-page petition for each property owner within the proposed district, whether the property owner signed in support or opposition or was nonresponsive to the petitioned cause.

“a. For the purpose of this act, each parcel of land is considered to have a single owner whether the parcel is owned by: an individual, a joint arrangement, a family unit, a partnership, a corporation, a religious or fraternal organization, or a government body.

“b. Each petition shall identify the property owner by name and shall list all property thusly owned by that property owner within

the district by map and parcel number as maintained by the Baldwin County Tax Assessor.

“(7) A list of all land parcels within the district by map and parcel number, property owner name and address, and indication of support or opposition for the petitioned cause.

“(8) A survey of significant sites and structures within the district.

“(9) A list of national and/or state register designees.

“(10) A proposed plan of development, if any.

“Section 7. The county commission may vote to enlarge a designated historic district or preservation district if it determines that the best interest of the district and county would be served by such action and where the county commission has received an appropriate application. Applicants requesting enlargement of a district shall meet the requirements and follow the procedures set forth in this act for designation of the applicable type district. The geographical area of enlargement shall be contiguous to the existing district.

“Section 8. The county commission may vote to rescind the designation of a historic district or preservation district if it determines that compelling and substantial supportive reasons exist and that the best interest of the county and district would be served by such action. In arriving at a decision, the county commission shall consider information received with the application for rescission, information received at the time of the district designation, and information received from both the public and Baldwin County Historic Development Commission. If the county commission denies the application for rescission of a district designation, that district shall remain as designated and no application for rescission will be permitted within the following period of four (4) years. A decision to rescind the district designation will abolish that district in total, not in part.

“Section 9. Applicants shall meet the following requirements in order for the county commission to consider rescission of a district designation:

“(1) Notification of the county commission and the Baldwin County Historic Development Commission by registered mail or by personal presentation to the county commission in a regularly scheduled county commission meeting of the intent to submit an application for rescission of a district designation. Notification shall precede solicitation of the signatures on petitions which request rescission of the district designation.

“(2) A percentage of district property owners not less than seventy (70) percent shall petition the Baldwin County Commission for rescission of the designation.

“(3) Copies of the application containing the information as required in this act must be received by the county commission and Baldwin County Historic Development Commission within the six (6) month period following receipt of the required notification from the applicant.

“(4) If the completed application is not received by the county commission and Baldwin County Historic Development Commission within the prescribed six (6) month period, the issue will be considered dead and no application for rescission will be permitted within the following period of four (4) years.

“Section 10. Applications submitted for rescission of a historic district or preservation district designation need be of no particular form, but shall contain the following information:

“(1) The name, address, and telephone number of the applicant. If applicant is a group or organization, include the name of the person who is to be contacted with respect to the application.

“(2) A written description of the district, including present land use and general location.

“(3) A written and detailed description of the reasons to be considered for rescission of the district designation.

“(4) A map or other graphic description of the district.

“(5) The legal description of the district.

“(6) A one-page petition for each property owner within the district, whether the property owner signed in support or opposition or was nonresponsive to the petitioned cause.

“a. For the purpose of this act, each parcel of land is considered to have a single owner whether the parcel is owned by: an individual, a joint arrangement, a family unit, a partnership, a corporation, a religious or fraternal organization, or a government body.

“b. Each petition shall identify the property owner by name and shall list all property thusly owned by that property owner within the district by map and parcel number as maintained by the Baldwin County Tax Assessor. Each petition shall be dated on the date of signing.

“(7) A list of all land parcels within the district by map and parcel number, property owner name and address, and indication of support or opposition for the petitioned cause.

"Section 11. A historic development commission with the following membership, duties and powers may be created by the county commission.

"(a) Said commission shall be composed of no less than eleven members who shall be selected by the county commission in such a manner as to serve overlapping terms. Except for the first members, their terms shall be four years.

"(b) The commission shall operate under a constitution as adopted by the commission and approved by the county commission.

"(c) The commission shall have as its purposes: (1) the preservation and protection of buildings of historic and architectural value in the historic districts, as defined in Section 2 of this act, and the maintenance of the distinctive character of these districts; (2) the fostering and encouraging of the preservation, restoration, and utilization of buildings of historic and architectural value in the historic districts; and (3) the development and promotion of historic districts, as major tourist attractions of historic and economic value.

"(d) Said commission shall have the power and authority in addition to all powers conferred on it by the general law: (1) to purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property of all kinds and descriptions; (2) to request, solicit and accept gifts, donations, pledges, fees, bequests, devises, loans or appropriations from any source whatsoever; (3) to set up at such lawful depository or depositories within the Baldwin County, as it may select, a 'Revolving Fund for Historic Development' which shall be composed of the monies which may come into its hands from any source whatsoever and which shall be used for the furtherance of the objectives and purposes of the commission; and (4) the commission may employ such professional, office, technical and other personnel as may be necessary or desirable for the carrying out in the most efficient manner of the purposes of such commission.

"(e) The commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes. Such commission shall have a tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements and contracts made by it shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, exercise and ad valorem taxes.

"(f) It shall be the duty of the commission to exercise such powers as the commission shall deem necessary and fitting to carry out the above stated purposes.

"Section 12. An architectural review board and a preservation district review board with the following membership, duties and powers may be created by the county commission.

"(a) Each board shall be composed of five members selected by the county commission to serve overlapping terms. Except for the first members, their terms shall be five years.

"(b) Each board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Meetings shall be held at regular intervals, but at least monthly. Each board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other civil employees of the county. Each board may also contract with architects and other professional and technical consultants for such services as it may require. The expenditures of each board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the county commission, which may provide the funds, equipment and accommodations necessary for the work of each board.

"(c) It shall be the duty of the architectural review board and preservation district review board to approve or disapprove plans for buildings to be erected or renovated which are located or are to be located within the historic and preservation districts respectively and landscaping for the same. The boards' authority shall extend only to the exterior of any building within the boundaries of such districts and the board shall have no authority to review the interior construction, renovation or style of any buildings within such districts.

"Section 13. The county commission shall prescribe the procedure for the review of building plans for any building to be erected or renovated which is located or to be located in the designated historic districts, including rules governing decisions of the architectural review board and the procedure for appeal from decisions of the architectural review board. The county commission shall prescribe the procedure for the review of building plans for any building to be erected or renovated which is located or is to be located within the designated preservation districts, including rules governing decisions of the preservation district review board and the procedure for appeal from decisions of the preservation district review board.

"Section 14. The county commission may adopt such other regulations as are necessary to effect the purposes of this act; provided however that nothing in this act shall be construed to authorize the county commission or any architectural review board, preservation district review board or historic development commission or any

other entity created under this act to prevent or regulate the construction or placement of utility poles, wires or equipment in any historic district or preservation district.

“Section 15. All laws or parts of laws which conflict with this act are hereby repealed.

“Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

“Section 17. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:15 P.M.

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Act No. 89-961

S. 702—Senator Hand

### AN ACT

Relating to Orange Beach in Baldwin County, so as to alter, rearrange and extend the boundary lines and corporate limits of the Town of Orange Beach.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the Town of Orange Beach in Baldwin County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

#### PARCEL 1:

Beginning at the intersection of the west boundary of the Gulf State Park at Cotton Bayou, Baldwin County, Alabama and Alabama Highway 182 and for the full width of said highway, run westward including the full width of said highway a distance of 17,907 feet until said highway intersects with the east boundary of the Gulf State Park at the Beach Pavilion.

#### PARCEL 20: Gulf State Park

Commence at the Northeast corner of Fraction “D”, which point is also the Southeast corner of the North one-half of the Northwest



quarter of Section 13, Township 9 South, Range 4 East and the Point of Beginning; run thence in a southerly direction along the North and South centerline of Section 13 to the Southeast corner of the North 1/2 of the Southeast 1/4 of the Northwest 1/4 of said Section 13; run thence in a westerly direction along the South line of the said North 1/2 of the Southeast 1/4 of the Northwest Quarter of Section 13 for 300 feet; run thence in a Northerly direction parallel to the North and South centerline of Section 13 to the East and West centerline of Section 12, Township 9 South, Range 4 East; run thence in an Easterly direction along the said East and West centerline of Section 12 to the Northeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 12; run thence in a Northerly direction along the West line of the Southeast 1/4 of the Northeast 1/4 to the Northwest corner of the Southeast 1/4 of the Northeast 1/4 of said Section 12; run thence in an Easterly direction along the North line of the Southeast 1/4 of the Northeast 1/4 of Section 12, Township 9 South, Range 4 East and along the North line of the South 1/2 of the Northwest 1/4 of Section 7, Township 9 South, Range 5 East to the Northeast corner of the said South 1/2 of the Northwest 1/4 of Section 7; run thence in a Northerly direction along the West line of the North 1/2 of the Northeast 1/4 of Section 7, to the Northwest corner of said North 1/2 of the Northeast 1/4 of Section 7; run thence in an Easterly direction along the North line of Section 7 and the North line of Section 8, Township 9 South, Range 5 East to the Northeast corner of said Section 8; run thence in a Southerly direction along the East line of said Section 8 to the Gulf of Mexico; run thence in a Southwesterly direction along the Gulf of Mexico to the intersection of a line that is on a perpendicular distance of 660 feet from the said East line of Section 8; run thence in a Northerly direction parallel with the said East line of Section 8 to the Northeast corner of the Southeast 1/4 of the Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of said Section 8; run thence in a Westerly direction along the South line of the North 1/2 of the Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of said Section 8 to the West line of the Southeast 1/4 of the Southeast 1/4 of said Section 8; run thence in a Northerly direction along the said West line of the Southeast 1/4 of the Southeast 1/4 of Section 8 to the Northeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 8; run thence in a Westerly direction along the North line of the Southwest 1/4 of the Southeast 1/4 and the North line of the South 1/2 of the Southwest 1/4 of Section 8 to the West line of said Section 8; run thence in a Southerly direction along the West line of said Section 8 to the Southeast corner of Section 7, Township 9 South, Range 5 East; run thence in a Westerly direction along the South line of said Section 7 to the Northeast corner of Section 13, Township 9 South, Range 4 East; run thence in a Southerly direction along the East line of said Section 13 to the

Southeast corner of the Northeast 1/4 of the Northeast 1/4 of Section 13; run thence in a Westerly direction along the South line of North 1/2 of the Northeast 1/4 to the North and South centerline of said Section 13 to the Point of Beginning. Said land being Sections 12 and 13, Township 9 South, Range 4 East and Sections 7 and 8, Township 9 South, Range 5 East, Baldwin County, Alabama.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:16 P.M.

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Act No. 89-962

S. 703—Senator Hand

### AN ACT

Relating to the Town of Orange Beach in Baldwin County; to alter and rearrange the boundary lines and corporate limits of the Town of Orange Beach by removing certain parcels of land; and to further alter and rearrange the said boundary lines and corporate limits of Orange Beach by adding certain parcels of land, subject to the referendum election approval by a majority of the electors residing within the territory proposed to be brought within.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the Town of Orange Beach in Baldwin County are hereby altered, rearranged and extended so as to exclude from the corporate limits of said municipality the following territory, to wit:

#### PARCEL 2:

Commencing at a point on the South Right-of-way line, and at a distance of 1100 feet East of the West line of Fraction "A" of Section 14, Township 9 South, Range 4 East, of Baldwin County, Alabama, which point is on the East line of property now or formerly owned by Alabama Public Hunting & Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Court records of Baldwin County, Alabama, run thence North 79 degrees 48' 40" East for 1.55 feet to a concrete right-of-way

monument; run thence Easterly along a curve to the left having a radius of 5764.07 feet for an arc distance of 172.55 feet to the point of beginning of the property herein conveyed; thence Northeasterly along said curve for an arc distance of 51.4 feet; run thence South 00 degrees 16 feet West for 560 feet, more or less, to the Gulf of Mexico; run thence in a Southwesterly direction for 51.4 feet, more or less, to a point that is South 00 degrees 16' West and 560 feet, more or less, from the point of beginning; run thence North 00 degrees 16 feet East for 560 feet, more or less, to the point of beginning.

### PARCEL 3:

Beginning at a point on the North line of Alabama Highway No. 182, said point being 2812 feet due West of the North and South center line of Section 13, Township 9 South, Range 4 East, and on the North and South Section line between Sections 13 and 14, Township 9 South, Range 4 East; run thence North along the Section line 1128 feet; run thence East along the East and West half section line 1400 feet, more or less; run thence North 660 feet; run thence East 140 feet, more or less, to the North and South half section line; run thence south along the said North and South center line 755.5 feet; run thence South 75 degrees 00' West 51.7 feet; run thence South 150 feet, to the North line of Alabama Highway No. 182; run thence South 75 degrees 00' West, along the North line of said Alabama Highway No. 182, 1532.7 feet, to the Southeast corner of the Campbell lot, run thence North 150 feet; run thence South 75 degrees 00' West, and around a 5933.55 foot radius curve to the left, parallel to the center line of Alabama Highway No. 182, 364 feet, to the East line of Scanlon's lot; run thence North 150 feet; run thence Southwesterly, around a curve that is parallel to the Center line of Alabama Highway No. 182, 105.2 feet; run thence South 150 feet; run thence Southwesterly around a curve that is parallel to the center line of Alabama Highway No. 182, 267.4 feet; run thence South 150 feet, to the North line of Alabama Highway No. 182; run thence South 68 degrees 00' West along said North line of Alabama Highway No. 182, 107 feet; run thence North 150 feet; run thence South 68 degrees 00' West 323.52 feet; run thence South 150 feet; run thence South 68 degrees 00' West, along the North line of Alabama Highway No. 182, 188.2 feet to the point of beginning. All as shown by survey by J.B. Allen, registered surveyor, dated January 3, 1966.

### PARCEL 4:

From north east corner of Section 18, Township 9 South, Range 5 East, run west 413.6 feet to point of beginning. Run west 292.4 feet, run south 740 feet, run easterly 301.4 feet, run north 669.4 feet

to point of beginning. Recorded in Book 136, page 1665, Baldwin County, Alabama.

PARCEL 5:

Beginning at a point on the south line of Alabama State Highway No. 182 right-of-way, at a distance 1100 feet east of the west line of fraction "A" of Section 14, Township 9 South, Range 4 east, of Baldwin County, Alabama, which point is on the east line of the Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book No. 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama; thence running Eastward along the south line of said Alabama Highway No. 182 right-of-way a distance of 354.5 feet to a point of beginning; thence continuing Eastwardly along the said South line of Alabama Highway No. 182 right-of-way a distance of 26.1 feet for the front; and for the depth extending South between parallel lines, which are also parallel to the said East line of the Alabama Public Hunting and Forestry Association, Inc., a distance of 524 feet, more or less, to the shore line of the Gulf of Mexico.

PARCEL 6:

Lot 1 of Block A of Subdivision 2 of Fractional Section 18, Township 9 South, Range 5 East, Baldwin County, Alabama, the plat of which said subdivision was recorded on January 20, 1961, pursuant to Circuit Court of Baldwin County Equity Case Number 2650, Taylor Scott Gay, executor vs John Watts Scott, in Map Book 5, Page 133 of the records of the Judge of Probate, Baldwin County, Alabama.

PARCEL 7:

From an iron pipe line marker on the South line of the right-of-way of Alabama State Highway No. 182, and at a distance of 1100 feet East of the West line of Fraction "A" of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama; said point being located on the East line of the Alabama Public Hunting and Forestry Association, Inc. property, as the same is described in a deed from Carl T. Martin, et.al. to said Association, recorded in Deed Book 122, at page 411 et.seq., Probate Records, Baldwin County, Alabama; run thence North 79 degrees 50 minutes East, a distance of 1.55 feet to a concrete right-of-way monument at the point of curve of a curve to the left, concave Northwestwardly, having a radius of 5789.65 feet and a central angle of 11 degrees 36 minutes; from said monument run Eastwardly along said right-of-way line to an iron marker situated 484.6 feet from said iron pipe marker, measured along said curve from point to point as the same is now marked, the said marker being situated North 77 degrees 33 minutes East, 482.25 feet from

said right-of-way marker (chord measurement); thence continue Eastwardly along said curve to an iron pipe marker which is situated North 74 degrees 15 minutes East, 104.5 feet from the last described point, for a point or place of beginning: From said Point of Beginning, run South 01 degrees 43 minutes West, 50.43 feet to the Northwest corner of a concrete block wall; run thence South 00 degrees 04 minutes East along said wall, 26 feet to the Southwest corner thereof; thence run South 00 degrees 48 minutes East along a well-built and established fence, 117 feet; thence along said fence and South 00 degrees 25 minutes East, 214 feet to an iron pipe line marker in said fence; run thence South 00 degrees 23 minutes East, along said fence, 139 feet, more or less, to the mean high water mark on the beach of the North shore of the Gulf of Mexico; thence run North 85 degrees 33 minutes East, along the North shore of said Gulf, 49 feet; thence run North 00 degrees 05 minutes East, along an old and well-built and established fence line, 557 feet, more or less, to an iron pipe corner marker on the south margin of said Alabama Highway No. 182; thence run Southwestwardly along the South margin of said Highway, 54.17 feet, more or less, to an iron pipe corner marker situated South 74 degrees 30 minutes west.

#### PARCEL 8:

That lot of land having a width of 100 feet on the Gulf of Mexico, being more particularly described as follows:

Beginning at the Northwest Corner of Fraction "E" of Section Thirteen (13), Township Nine (9) South, Range Four (4) East, of the St. Stephens Meridian in Baldwin County Alabama, running thence Southwardly along the West line of said Fraction "E" a distance of 1350 feet; thence East (and parallel with the North line of said Fraction "E") a distance of 200 feet to the point of beginning; thence from said point of beginning run East (and parallel with the North line of said Fraction "E") a distance of 100 feet for the width of said lot, thence between parallel lines Southwardly (and parallel to the West line of said Fraction "E") to the Gulf of Mexico; said lot of land in 1948 being bounded on the West by property of Roche and on the North by property of Turner and Twitty, on the East by property of Gomila and on the South by the Gulf of Mexico, subject to the following restrictions, easements, etc.

#### PARCEL 9

200 feet at Romar Beach on Gulf of Mexico lying South of Alabama Highway No. 182.

Starting at the Northeast corner of Section 18, Township 9 South, Range 5 East; run thence West along the section line 2701.3 feet more or less, to the North and South half section line of said

Section 18; run thence South along the said half section line 1200 feet, more or less, to a point on the South right-of-way line of Alabama Highway No. 182; run thence Easterly along the said South right-of-way line 1223.5 feet to the point of beginning; continue thence North 76 degrees 00 minutes East, along said South right-of-way line 200 feet; run thence due South 820 feet, more or less, to the margin of the Gulf of Mexico; run thence South 76 degrees 00 minutes West, and along the said margin of the Gulf of Mexico, 200 feet; run thence due North 820 feet, more or less to the point of beginning.

**PARCEL 10:**

To reach the point of beginning, commence at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East; thence run South 0 degrees 15 minutes East along the West line of said Fractional Section 17 for 613.6 feet, more or less, to the South margin of Alabama Highway No. 182; thence run North 75 degrees 55 minutes East along the South margin of said Alabama Highway No. 182 for 3,723.4 feet to the point of beginning of the property hereinafter described; from said point of beginning thence run North 75 degrees 55 minutes East along the South margin of said Alabama Highway No. 182 for 100.0 feet; thence run South for 467 feet, more or less, to the Gulf of Mexico; thence run in the direction South 76 degrees 0 minutes West, more or less, along and with the margin of the Gulf of Mexico, with its meanderings, for 100 feet, more or less, to a point on the margin of the Gulf of Mexico lying due South of the point of beginning; thence run due North for 467 feet, more or less, to the point of beginning. Said property fronts for 100.0 feet on the South margin of Alabama Highway No. 182, and also fronts for 100 feet, more or less, on the Gulf of Mexico, and is situated in Township 9 South, Range 5 East, Baldwin County, Alabama. In aid of the above and foregoing description, reference is made to the survey made by J. B. Allen, Registered Alabama Surveyor No. 1326, under date of December 16, 1966, a copy of which is recorded in the Probate Office of Baldwin County, Alabama, in Deed Book 432, at Pages 583-590.

**PARCEL 11:**

Lots 3, 4, 7 and 8 of Alabama Point Subdivision, Plat Number 2, according to the map thereof recorded in the Probate Office of Baldwin County, Alabama in Map Book 7, at Page 45.

**PARCEL 12:**

Beginning at a point on the South boundary of the right-of-way of the State highway known as the Gulf Shores-Alabama Point Highway, which traverses Fraction E, Section 13, Township 9 South, Range 4 East, which point on said South line of said right-of-way

is 920 feet East of the West boundary of said Fraction E, thence running Southwardly along a line parallel to the said West boundary of said Fraction E to the Gulf of Mexico, thence West along the meanderings of the Gulf of Mexico to a point which is 100 feet West of (and measured perpendicularly from) the said East boundary of the lot herein conveyed, thence North to the South boundary of the right-of-way of said State highway, thence Eastwardly and along the said South boundary of said State highway to the point of beginning; said property being bound on the East by property of Noel M. Turner, on the South by the Gulf of Mexico, on the West by property of the Grantor and on the North by said State highway.

#### PARCEL 13:

Beginning at the Northwest corner of Fraction E, Section 13, Township 9 South, Range 4 East and running thence Eastwardly along the North line of said Fraction E a distance of 1320 feet to a point, thence Southwardly (and along a line parallel to the East and West lines of Said Fraction E) a distance of 1341.06 feet to a point where said line intersects the South boundary of the right-of-way of the public highway known as the Gulf Shores-Alabama Point Highway, which point is marked by a concrete monument and is the point of beginning for the property herein described; thence from said point of beginning continuing Southwardly along said line to the Gulf of Mexico, thence Westwardly along the Gulf of Mexico, to a point which is 60 feet West of the East line of the property herein described measured perpendicularly from an extension of said East line, thence Northwardly along a line parallel to the East line of the property herein conveyed to a point on the South line of said right-of-way, thence Eastwardly along said South line of said right-of-way, to the point of beginning.

#### PARCEL 14:

From the intersection of the North line of Alabama State Highway 182 and the East line of Section 8, T-9-S, R-5-E, Baldwin County, Alabama, run thence South 75 degrees 59 minutes West along said North right of way line 684 feet, more or less to a point on the East line of the S.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8 and the point of beginning; from the point of beginning continue South 75 degrees 59 minutes West along said North right of way line 2,300 feet, more or less; thence run North 00 degrees 15 minutes West and parallel to the West line of said Section 8, 700 feet, more or less, run thence South 88 degrees 11 minutes 02 seconds West, 626.78 feet to a point; run thence South 69 degrees 56 minutes 17 seconds West, 159.61 feet to a point; run thence South 787.43 feet to a point on the North right of way line of said Highway 182; run thence South 75 degrees 59 seconds West

along said right of way line 857.73 feet to a point; run thence North 400 feet to a point; run thence south 75 degrees 59 minutes West, 225 feet to a point; run thence south 400 feet to a point on the North right of way line of said Highway 182; run thence South 75 degrees 59 minutes West along said right of way line 322.19 feet to a point; run thence North 00 degrees 09 minutes 30 seconds East 300 feet to a point; run thence North 75 degrees 59 minutes East 122.41 feet to a point; run thence Northwardly along the arc of a curve to the left, having a radius of 712.87 feet, a distance of 91.67 feet to a point; run thence North 15 degrees 20 seconds West 591.7 feet to a point of a curvature; run thence northerly along the arc of a curve to the right, having a radius of 274.01 feet, a distance of 43.9 feet; run thence south 63 degrees 51 minutes 54 seconds West a distance of 226.3 feet; more or less, to a point on the West line of said Section 8, thence run North 00 degrees 01 minutes 05 seconds East, along the West line of said Section 8, 813.47 feet to a point; thence run South 89 degrees 54 minutes 30 Seconds East, 3,978 feet, more or less to the Northeast corner of the S.W. 1/4 of the S.E. 1/4 of said Section 8, thence run South 333.3 feet to the Northwest corner of the S.W. 1/4 of the N.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8; thence run East 662.5 feet to the Northeast corner of the S.E. 1/4 of the N.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8, run thence South 380.2 feet to the point of beginning.

#### PARCEL 15:

Commence at the Northeast corner of Fraction "E", Section 13, Township 9 South, Range 4 East, run thence South on the range line 960.25 feet to a point on the South right of way line of Alabama Highway No. 182; run thence South 75 degrees 00' 43" West along said right of way for 1331.44 feet to the point of beginning, continue thence south 75 degrees 00' 43" West along said right of way for 165.8 feet to a concrete monument, run thence South 00' degrees 15' 00" West for 678 feet, more or less, to the North margin of the Gulf of Mexico, run thence in a Northeasterly direction along said margin of Gulf of Mexico to a point which is South 00 degrees 15' 00" West and 650 feet, more or less, from the point of beginning, run thence North 00 degrees 15' 00" East for 650 feet, more or less, to the point of beginning. Said property being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 16:

Commencing at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East, Baldwin County, Alabama; run thence South 00 degree, 09' 30" West a distance of 487.86 feet to the north line of Alabama Highway No. 182; run thence North 75



Degree, 59' East along said North line a distance of 2166.25 feet to the point of beginning of the property herein described; run thence North 00 Degree, 01' 05" East a distance of 129.95 feet; run thence North 45 Degree, 00' 32" East a distance of 21.22 feet; run thence East a distance of 145.0 feet; run thence South 00 Degree, 01' 05" West a distance of 105.0 feet to the North line of Alabama Highway No. 182; run thence South 75 Degree 59' West along said North line, a distance of 164.92 feet to the point of beginning. Contains 0.45 acres, more or less.

#### PARCEL 17:

Commence at a point on the North right-of-way line of Alabama Highway No. 182, which point is 1591.29 feet West from the North and South centerline of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama, for the Point of Beginning; run thence North 00 degree 02'-22" East for 150.0 feet; run thence South 74 degree 35'-13" West for chord distance of 52.07 feet; run thence South 00 degree 02'-22" West for 150.0 feet to the North right-of-way line of said Alabama Highway No. 182; run thence North 74 degree 35'-13" East along the North right-of-way of said Alabama Highway No. 182 for a chord distance of 52.07 feet to the Point of Beginning. Said land being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 18:

Commence at a point on the North right-of-way line of Alabama Highway No. 182, which point is 1691.67 feet West from the North and South centerline of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama, for the Point of Beginning; run thence North 00 degree 02'-22" East for 150.0 feet; run thence South 73 degree 33'-34" West for a chord distance of 52.34 feet; run thence South 00 degree 02'-22" West for 150.0 feet to the North right-of-way line of said Alabama Highway No. 182; run thence North 73 degree 33'-34" East along the North right-of-way of said Alabama Highway No. 182 for a chord distance of 52.34 feet to the Point of Beginning. Said land being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 19:

Commencing at the Northeast corner of Fraction "D", which point is also the Southeast corner of the North one-half of the Northwest quarter of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian; running thence South along the North and South center line of said Section 13, a distance of 1,685.05 feet to a point, thence through an angle of 75 degrees and no minutes to the right, running southwesterly 683.28 feet to a point of beginning;

thence through an angle to the left of 75 degrees and no minutes, run South and parallel with the East boundary of Fraction "D" of said Section 13, a distance of 790 feet to the shore of the Gulf of Mexico; run thence Southwesterly along the shore of the Gulf of Mexico; and parallel to Alabama Highway No. 182, a distance of 51.76 feet to a point; which point is 710 feet due west of the East boundary line of said Fraction "D" if said line was extended out into the Gulf of Mexico; run thence North and parallel with the East boundary of Fraction "D", of said Section 13 a distance of 382 feet to a point; thence through an angle of 90 degrees and no minutes to the left, running West 30 feet to a point; thence through an angle of 90 degrees and no minutes to the right, running North, parallel to the East boundary of Fraction "D", of said Section 13, a distance of 400 feet to a point on the South right-of-way line of Alabama Highway No. 182; thence through an angle of 75 degrees and no minutes to the right, run Northeasterly along the South line of said Alabama Highway No. 182, a distance of 82.82 feet to the point of beginning. Being a lot of land 80 feet in width at right angle across the North end, and 50 feet in width at right angles at the South end, lying between Alabama Highway No. 182 and the Gulf of Mexico in Fraction "D", Section 13, Township 9 South, Range 4 East.

**Section 2.** Subject to the referendum election approval as provided in Section 3 hereof, the boundary lines and corporate limits of the town of Orange Beach in Baldwin County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

**PARCEL 2:**

Commencing at a point on the South Right-of-way line, and at a distance of 1100 feet East of the West line of Fraction "A" of Section 14, Township 9 South, Range 4 East, of Baldwin County, Alabama, which point is on the East line of property now or formerly owned by Alabama Public Hunting & Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Court records of Baldwin County, Alabama, run thence North 79 degrees 48' 40" East for 1.55 feet to a concrete right-of-way monument; run thence Easterly along a curve to the left having a radius of 5764.07 feet for an arc distance of 172.55 feet to the point of beginning of the property herein conveyed; thence Northeasterly along said curve for an arc distance of 51.4 feet; run thence South 00 degrees 16 feet West for 560 feet, more or less, to the Gulf of Mexico; run thence in a Southwesterly direction for 51.4 feet, more or less, to a point that is South 00 degrees 16' West and 560 feet, more or less, from the point of beginning; run thence North 00

degrees 16 feet East for 560 feet, more or less, to the point of beginning.

#### PARCEL 3:

Beginning at a point on the North line of Alabama Highway No. 182, said point being 2812 feet due West of the North and South center line of Section 13, Township 9 South, Range 4 East, and on the North and South Section line between Sections 13 and 14, Township 9 South, Range 4 East; run thence North along the Section line 1128 feet; run thence East along the East and West half section line 1400 feet, more or less; run thence North 660 feet; run thence East 140 feet, more or less, to the North and South half section line; run thence south along the said North and South center line 755.5 feet; run thence South 75 degrees 00' West 51.7 feet; run thence South 150 feet, to the North line of Alabama Highway No. 182; run thence South 75 degrees 00' West, along the North line of said Alabama Highway No. 182, 1532.7 feet, to the Southeast corner of the Campbell lot, run thence North 150 feet; run thence South 75 degrees 00' West, and around a 5933.55 foot radius curve to the left, parallel to the center line of Alabama Highway No. 182, 364 feet, to the East line of Scanlon's lot; run thence North 150 feet; run thence Southwesterly, around a curve that is parallel to the Center line of Alabama Highway No. 182, 105.2 feet; run thence South 150 feet; run thence Southwesterly around a curve that is parallel to the center line of Alabama Highway No. 182, 267.4 feet; run thence South 150 feet, to the North line of Alabama Highway No. 182; run thence South 68 degrees 00' West along said North line of Alabama Highway No. 182, 107 feet; run thence North 150 feet; run thence South 68 degrees 00' West 323.52 feet; run thence South 150 feet; run thence South 68 degrees 00' West, along the North line of Alabama Highway No. 182, 188.2 feet to the point of beginning. All as shown by survey by J.B. Allen, registered surveyor, dated January 3, 1966.

#### PARCEL 4:

From north east corner of Section 18, Township 9 South, Range 5 East, run west 413.6 feet to point of beginning. Run west 292.4 feet, run south 740 feet, run easterly 301.4 feet, run north 669.4 feet to point of beginning. Recorded in Book 136, page 1665, Baldwin County, Alabama.

#### PARCEL 5:

Beginning at a point on the south line of Alabama State Highway No. 182 right-of-way, at a distance 1100 feet east of the west line of fraction "A" of Section 14, Township 9 South, Range 4 east, of Baldwin County, Alabama, which point is on the east line of the

Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book No. 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama; thence running Eastward along the south line of said Alabama Highway No. 182 right-of-way a distance of 354.5 feet to a point of beginning; thence continuing Eastwardly along the said South line of Alabama Highway No. 182 right-of-way a distance of 26.1 feet for the front; and for the depth extending South between parallel lines, which are also parallel to the said East line of the Alabama Public Hunting and Forestry Association, Inc., a distance of 524 feet, more or less, to the shore line of the Gulf of Mexico.

#### PARCEL 6:

Lot 1 of Block A of Subdivision 2 of Fractional Section 18, Township 9 South, Range 5 East, Baldwin County, Alabama, the plat of which said subdivision was recorded on January 20, 1961, pursuant to Circuit Court of Baldwin County Equity Case Number 2650, Taylor Scott Gay, executor vs John Watts Scott, in Map Book 5, Page 133 of the records of the Judge of Probate, Baldwin County, Alabama.

#### PARCEL 7:

From an iron pipe line marker on the South line of the right-of-way of Alabama State Highway No. 182, and at a distance of 1100 feet East of the West line of Fraction "A" of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama; said point being located on the East line of the Alabama Public Hunting and Forestry Association, Inc. property, as the same is described in a deed from Carl T. Martin, et.al. to said Association, recorded in Deed Book 122, at page 411 et. seq., Probate Records, Baldwin County, Alabama; run thence North 79 degrees 50 minutes East, a distance of 1.55 feet to a concrete right-of-way monument at the point of curve of a curve to the left, concave Northwestwardly, having a radius of 5789.65 feet and a central angle of 11 degrees 36 minutes; from said monument run Eastwardly along said right-of-way line to an iron marker situated 484.6 feet from said iron pipe marker, measured along said curve from point to point as the same is now marked, the said marker being situated North 77 degrees 33 minutes East, 482.25 feet from said right-of-way marker (chord measurement); thence continue Eastwardly along said curve to an iron pipe marker which is situated North 74 degrees 15 minutes East, 104.5 feet from the last described point, for a point or place of beginning; From said Point of Beginning, run South 01 degrees 43 minutes West, 50.43 feet to the Northwest corner of a concrete block wall; run thence South 00 degrees 04 minutes East along said wall, 26 feet to the Southwest corner thereof; thence run South 00 degrees 48 minutes East along a well-built and

established fence, 117 feet; thence along said fence and South 00 degrees 25 minutes East, 214 feet to an iron pipe line marker in said fence; run thence South 00 degrees 23 minutes East, along said fence, 139 feet, more or less, to the mean high water mark on the beach of the North shore of the Gulf of Mexico; thence run North 85 degrees 33 minutes East, along the North shore of said Gulf, 49 feet; thence run North 00 degrees 05 minutes East, along an old and well-built and established fence line, 557 feet, more or less, to an iron pipe corner marker on the south margin of said Alabama Highway No. 182; thence run Southwestwardly along the South margin of said Highway, 54.17 feet, more or less, to an iron pipe corner marker situated South 74 degrees 30 minutes west.

#### PARCEL 8:

That lot of land having a width of 100 feet on the Gulf of Mexico, being more particularly described as follows:

Beginning at the Northwest Corner of Fraction "E" of Section Thirteen (13), Township Nine (9) South, Range Four (4) East, of the St. Stephens Meridian in Baldwin County, Alabama, running thence Southwardly along the West line of said Fraction "E" a distance of 1350 feet; thence East (and parallel with the North line of said Fraction "E") a distance of 200 feet to the point of beginning; thence from said point of beginning run East (and parallel with the North line of said Fraction "E") a distance of 100 feet for the width of said lot, thence between parallel lines Southwardly (and parallel to the West line of said Fraction "E") to the Gulf of Mexico; said lot of land in 1948 being bounded on the West by property of Roche and on the North by property of Turner and Twitty, on the East by property of Gomila and on the South by the Gulf of Mexico, subject to the following restrictions, easements, etc.

#### PARCEL 9

200 feet at Romar Beach on Gulf of Mexico lying South of Alabama Highway No. 182.

Starting at the Northeast corner of Section 18, Township 9 South, Range 5 East; run thence West along the section line 2701.3 feet more or less, to the North and South half section line of said Section 18; run thence South along the said half section line 1200 feet, more or less, to a point on the South right-of-way line of Alabama Highway No. 182; run thence Easterly along the said South right-of-way line, 1223.5 feet to the point of beginning; continue thence North 76 degrees 00 minutes East, along said South right-of-way line 200 feet; run thence due South 820 feet, more or less, to the margin of the Gulf of Mexico; run thence South 76 degrees 00 minutes

West, and along the said margin of the Gulf of Mexico, 200 feet; run thence due North 820 feet, more or less to the point of beginning.

PARCEL 10:

To reach the point of beginning, commence at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East; thence run South 0 degrees 15 minutes East along the West line of said Fractional Section 17 for 613.6 feet, more or less, to the South margin of Alabama Highway No. 182; thence run North 75 degrees 55 minutes East along the South margin of said Alabama Highway No. 182 for 3,723.4 feet to the point of beginning of the property hereinafter described; from said point of beginning thence run North 75 degrees 55 minutes East along the South margin of said Alabama Highway No. 182 for 100.0 feet; thence run South for 467 feet, more or less, to the Gulf of Mexico; thence run in the direction South 76 degrees 0 minutes West, more or less, along and with the margin of the Gulf of Mexico, with its meanderings, for 100 feet, more or less, to a point on the margin of the Gulf of Mexico lying due South of the point of beginning; thence run due North for 467 feet, more or less, to the point of beginning. Said property fronts for 100.0 feet on the South margin of Alabama Highway No. 182, and also fronts for 100 feet, more or less, on the Gulf of Mexico, and is situated in Township 9 South, Range 5 East, Baldwin County, Alabama. In aid of the above and foregoing description, reference is made to the survey made by J. B. Allen, Registered Alabama Surveyor No. 1326, under date of December 16, 1966, a copy of which is recorded in the Probate Office of Baldwin County, Alabama, in Deed Book 432, at Pages 583-590.

PARCEL 11:

Lots 3, 4, 7 and 8 of Alabama Point Subdivision, Plat Number 2, according to the map thereof recorded in the Probate Office of Baldwin County, Alabama in Map Book 7, at Page 45.

PARCEL 12:

Beginning at a point on the South boundary of the right-of-way of the State highway known as the Gulf Shores-Alabama Point Highway, which traverses Fraction E, Section 13, Township 9 South, Range 4 East, which point on said South line of said right-of-way is 920 feet East of the West boundary of said Fraction E, thence running Southwardly along a line parallel to the said West boundary of said Fraction E to the Gulf of Mexico, thence West along the meanderings of the Gulf of Mexico to a point which is 100 feet West of (and measured perpendicularly from) the said East boundary of the lot herein conveyed, thence North to the South boundary of the right-of-way of said State highway, thence Eastwardly and along the

said South boundary of said State highway to the point of beginning; said property being bound on the East by property of Noel M. Turner, on the South by the Gulf of Mexico, on the West by property of the Grantor and on the North by said State highway.

#### PARCEL 13:

Beginning at the Northwest corner of Fraction E, Section 13, Township 9 South, Range 4 East and running thence Eastwardly along the North line of said Fraction E a distance of 1320 feet to a point, thence Southwardly (and along a line parallel to the East and West lines of Said Fraction E) a distance of 1341.06 feet to a point where said line intersects the South boundary of the right-of-way of the public highway known as the Gulf Shores-Alabama Point Highway, which point is marked by a concrete monument and is the point of beginning for the property herein described; thence from said point of beginning continuing Southwardly along said line to the Gulf of Mexico, thence Westwardly along the Gulf of Mexico, to a point which is 60 feet West of the East line of the property herein described measured perpendicularly from an extension of said East line, thence Northwardly along a line parallel to the East line of the property herein conveyed to a point on the South line of said right-of-way, thence Eastwardly along said South line of said right-of-way to the point of beginning.

#### PARCEL 14:

From the intersection of the North line of Alabama State Highway 182 and the East line of Section 8, T-9-S, R-5-E, Baldwin County, Alabama, run thence South 75 degrees 59 minutes West along said North right of way line 684 feet, more or less to a point on the East line of the S.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8 and the point of beginning; from the point of beginning continue South 75 degrees 59 minutes West along said North right of way line 2,300 feet, more or less; thence run North 00 degrees 15 minutes West and parallel to the West line of said Section 8, 700 feet, more or less, run thence South 88 degrees 11 minutes 02 seconds West, 626.78 feet to a point; run thence South 69 degrees 56 minutes 17 seconds West, 159.61 feet to a point; run thence South 787.43 feet to a point on the North right of way line of said Highway 182; run thence South 75 degrees 59 seconds West along said right of way line 857.73 feet to a point; run thence North 400 feet to a point; run thence south 75 degrees 59 minutes West, 225 feet to a point; run thence south 400 feet to a point on the North right of way line of said Highway 182; run thence South 75 degrees 59 minutes West along said right of way line 322.19 feet to a point; run thence North 00 degrees 09 minutes 30 seconds East 300 feet to a point; run thence North 75 degrees 59 minutes East 122.41 feet to a point; run thence

Northwardly along the arc of a curve to the left, having a radius of 712.87 feet, a distance of 91.67 feet to a point; run thence North 15 degrees 20 seconds West 591.7 feet to a point of a curvature; run thence northerly along the arc of a curve to the right, having a radius of 274.01 feet, a distance of 43.9 feet; run thence south 63 degrees 51 minutes 54 seconds West a distance of 226.3 feet; more or less, to a point on the West line of said Section 8, thence run North 00 degrees 01 minutes 05 seconds East, along the West line of said Section 8, 813.47 feet to a point; thence run South 89 degrees 54 minutes 30 Seconds East, 3,978 feet, more or less to the Northeast corner of the S.W. 1/4 of the S.E. 1/4 of said Section 8, thence run South 333.3 feet to the Northwest corner of the S.W. 1/4 of the N.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8; thence run East 662.5 feet to the Northeast corner of the S.E. 1/4 of the N.W. 1/4 of the S.E. 1/4 of the S.E. 1/4 of said Section 8, run thence South 380.2 feet to the point of beginning.

#### PARCEL 15:

Commence at the Northeast corner of Fraction "E", Section 13, Township 9 South, Range 4 East, run thence South on the range line 960.25 feet to a point on the South right of way line of Alabama Highway No. 182; run thence South 75 degrees 00' 43" West along said right of way for 1331.44 feet to the point of beginning, continue thence south 75 degrees 00' 43" West along said right of way for 165.8 feet to a concrete monument, run thence South 00' degrees 15' 00" West for 678 feet, more or less, to the North margin of the Gulf of Mexico, run thence in a Northeasterly direction along said margin of the Gulf of Mexico to a point which is South 00 degrees 15' 00" West and 650 feet, more or less from the point of beginning, run thence North 00 degrees 15' 00" East for 650 feet, more or less, to the point of beginning. Said property being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 16:

Commencing at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East, Baldwin County, Alabama; run thence South 00 degree, 09' 30" West a distance of 487.86 feet to the north line of Alabama Highway No. 182; run thence North 75 Degree, 59' East along said North line a distance of 2166.25 feet to the point of beginning of the property herein described; run thence North 00 Degree, 01' 05" East a distance of 129.95 feet; run thence North 45 Degree, 00' 32" East a distance of 21.22 feet; run thence East a distance of 145.0 feet; run thence South 00 Degree, 01' 05" West a distance of 105.0 feet to the North line of Alabama Highway No. 182; run thence South 75 Degree 59' West along said North



line, a distance of 164.92 feet to the point of beginning. Contains 0.45 acres, more or less.

#### PARCEL 17:

Commence at a point on the North right-of-way line of Alabama Highway No. 182, which point is 1591.29 feet West from the North and South centerline of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama, for the Point of Beginning; run thence North 00 degree 02'-22" East for 150.0 feet; run thence South 74 degree 35'-13" West for a chord distance of 52.07 feet; run thence South 00 degree 02'-22" West for 150.0 feet to the North right-of-way line of said Alabama Highway No. 182; run thence North 74 degree 35'-13" East along the North right-of-way of said Alabama Highway No. 182 for a chord distance of 52.07 feet to the Point of Beginning. Said land being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 18:

Commence at a point on the North right-of-way line of Alabama Highway No. 182, which point is 1691.67 feet West from the North and South centerline of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama, for the Point of Beginning; run thence North 00 degree 02'-22" East for 150.0 feet; run thence South 73 degree 33'-34" West for a chord distance of 52.34 feet; run thence South 00 degree 02'-22" West for 150.0 feet to the North right-of-way line of said Alabama Highway No. 182; run thence North 73 degree 33'-34" East along the North right-of-way of said Alabama Highway No. 182 for a chord distance of 52.34 feet to the Point of Beginning. Said land being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

#### PARCEL 19:

Commencing at the Northeast corner of Fraction "D", which point is also the Southeast corner of the North one-half of the Northwest quarter Section of 13, Township 9 South, Range 4 East of St. Stephens Meridian; running thence South along the North and South center line of said Section 13, a distance of 1,685.05 feet to a point, thence through an angle of 75 degrees and no minutes to the right, running southwesterly 683.28 feet to a point of beginning; thence through an angle to the left of 75 degrees and no minutes, run South and parallel with the East boundary of Fraction "D" of said Section 13, a distance of 790 feet to the shore of the Gulf of Mexico; run thence Southwesterly along the shore of the Gulf of Mexico; and parallel to Alabama Highway No. 182, a distance of 51.76 feet to a point; which point is 710 feet due west of the East boundary line of said Fraction "D" if said line was extended out

into the Gulf of Mexico; run thence North and parallel with the East boundary of Fraction "D" of said Section 13 a distance of 382 feet to a point; thence through an angle of 90 degrees and no minutes to the left, running West 30 feet to a point; thence through an angle of 90 degrees and no minutes to the right, running North, parallel to the East boundary of Fraction "D", of said Section 13, a distance of 400 feet to a point on the South right-of-way line of Alabama Highway No. 182; thence through an angle of 75 degrees and no minutes to the right, run Northeasterly along the South line of said Alabama Highway No. 182, a distance of 82.82 feet to the point of beginning. Being a lot of land 80 feet in width at right angle across the North end, and 50 feet in width at right angles at the South end, lying between Alabama Highway No. 182 and the Gulf of Mexico in Fraction "D", Section 13, Township 9 South, Range 4 East.

In addition the following remaining property shall be included:

Parcel 1a:

Commence at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East; run thence South 00 degree-15'-00" East along the West line of said Fractional Section 17 for 613.6 feet, more or less, to the South right-of-way line of Alabama Highway No. 182; run thence North 75 degrees-55'-00" East along the said South right-of-way line for 3823.4 feet to the Point of Beginning; run thence South to the Gulf of Mexico; run thence Northeasterly along the margin of the Gulf of Mexico to a point on the East line of Section 8, Township 9 South, Range 5 East; run thence North along said East line of Section 8 to a point on the South right-of-way of Alabama Highway No. 182; run thence Southwesterly along said South right-of-way line to the Point of Beginning.

Parcel 2a:

Commence at the Northeast corner of Section 18, Township 9 South, Range 5 East; run thence West along the Section line for 2701.3 feet, more or less, to the North and South half section line of said Section 18; run thence South along the said half section line for 1200 ft. more or less, to a point on the South right-of-way line of Alabama Highway No. 182; run thence Easterly along the said South right-of-way line for 1423.5 feet to the Point of Beginning; continue thence Northeasterly along the said South right-of-way line to a point that is North 75 degrees-55'-00" East and 3723.4 feet from the intersection of the said South right-of-way line and the West line of Fractional Section 17, Township 9 South, Range 5 East; run thence South to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

## Parcel 3a:

Commence at the Northeast corner of Section 18, Township 9 South, Range 5 East; run thence West along the Section line for 2701.3 feet, more or less, to the North and South half section line of said Section 18; run thence South along the said half section line for 1200 ft. more or less, to a point on the South right-of-way line of Alabama Highway No. 182; run thence Easterly along the said South right-of-way line for 1223.5 feet to the point of Beginning; run thence Southwesterly along said South right-of-way line to a point where said South right-of-way intersects with a line that is 1320 feet East of and parallel to the West line of Fraction E, Section 13, Township 9 South, Range 4 East; run thence South to the Gulf of Mexico; run thence Northeasterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

## LESS &amp; EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

Commence at the Northeast corner of Fraction "E", Section 13, Township 9 South, Range 4 East, run thence South on the range line 960.25 feet to a point on the South right of way line of Alabama Highway No. 182; run thence South 75 degrees 00' 43" West along said right of way for 1331.44 feet to the point of beginning, continue thence South 75 degrees 00' 43" West along said right of way for 165.8 feet to a concrete monument, run thence South 00 degrees 15' 00" West for 678 feet, more or less, to the North margin of the Gulf of Mexico, run thence in a Northeasterly direction along said margin of the Gulf of Mexico to a point which is South 00 degrees 15' 00" West and 650 feet, more or less, from the point of beginning, run thence North 00 degrees 15' 00" East for 650 feet, more or less, to the point of beginning. Said property being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

## Parcel 4a:

Commence at the Northwest corner of Fraction E, Section 13, Township 9 South, Range 4 East; run thence East along the North line of said Fraction E for 1260 feet; run thence South along a line parallel to the West line of said Fraction E to a point where said line intersects the south right-of-way of Alabama Highway No. 182 for the Point of Beginning; run thence Southwesterly along said South right-of-way line to a point on said South right-of-way line which is 1020 feet East of the West line of said Fraction E; run thence South and parallel to said West line of Fraction E to the Gulf of Mexico; run thence Northeasterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

## Parcel 5a:

Commence at the Northwest corner of Fraction E, Section 13, Township 9 South, Range 4 East; run thence East along the North line of said Fraction E for 820 feet to a point; run thence South and parallel to the West line of said Fraction E to a point on the South right-of-way line of Alabama Highway No. 182; run thence Southwesterly along said South right-of-way line to a point on said South right-of-way line which is 300 feet East of the West line of said Fraction E; run thence South and parallel to said west line of Fraction E to the Gulf of Mexico; run thence Northeasterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

## Parcel 6a:

Commence at the Northwest corner of Fraction E, Section 13, Township 9 South, Range 4 East; run thence East along the North line of said Fraction E for 200 feet to a point; run thence South and parallel to the West line of said Fraction E to a point on the South right-of-way line of Alabama Highway No. 182; run thence Southwesterly along said South right-of-way line to a point on said South right-of-way line which is 660 feet West of a Southerly extension of the West line of Fraction E; run thence South and parallel to said West line of Fraction E to the Gulf of Mexico; run thence Northeasterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

## Parcel 7a:

Commence at the Northeast corner of Lot 3 of Alabama Point Subdivision, Plat No. 2, as recorded in Map Book 7, Page 45 of the Baldwin County Probate Records; run thence Northeasterly along the South right-of-way line of Alabama Highway No. 182 to a point on said South right-of-way line which is 740 feet West of a Southerly extension of the East line of Fraction D, Section 13, Township 9 South, Range 4 East; run thence South for 400 feet; run thence East for 30 feet; run thence South to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to the East line of Lots 3, 4, 7, and 8 of said Alabama Point Subdivision; run thence North along said East line to the Point of Beginning.

## Parcel 8a:

Commence at a point on the South right-of-way line of Alabama Highway No. 182 and at a distance of 1100 feet East of the Westline of Fraction A of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama, which point is on the East line of property

now or formerly owned by Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama; run thence Northeasterly along said South right-of-way line for 644.82 feet, more or less, to the Point of Beginning; continue thence along said South right-of-way line to the Northwest corner of Lot 3 of Alabama Point Subdivision, Plat No. 2, as recorded in Map Book 7, Page 45 of the Baldwin County Probate Records; run thence South along the West line of Lots 3, 4, 7, & 8 of said Alabama Point Subdivision to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to a point due South of the Point of Beginning; run thence North to the Point of Beginning.

Parcel 9a:

Commence at a point on the South right-of-way line of Alabama Highway No. 182 and at a distance of 1100 feet East of the West line of Fraction A of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama, which point is on the East line of property now or formerly owned by Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama; run thence Northeasterly along said South right-of-way line for 380.6 feet, more or less to the Point of Beginning; continue thence along said South right-of-way line for 159.72 feet, more or less, to a point; run thence South to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

Parcel 10a:

Commence at a point on the South right-of-way line of Alabama Highway No. 182 and a distance of 1100 feet East of the West line of Fraction A of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama, which point is on the East line of property now or formerly owned by Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama; run thence Northeasterly along said South right-of-way line for 225.5 feet, more or less, to the Point of Beginning; continue thence along said South right-of-way line for 129.0 feet, more or less, to a point; run thence South to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

Parcel 11a:

Commence at a point on the South right-of-way line of Alabama Highway No. 182 and a distance of 1100 feet East of the Westline

of Fraction A of Section 14, Township 9 South, Range 4 East, Baldwin County, Alabama, which point is on the East line of property now or formerly owned by the Alabama Public Hunting and Forestry Association, Inc., as shown by deed recorded in Deed Book 122 N.S., Page 411 of the Probate Records of Baldwin County, Alabama, and said point being the Point of Beginning; run thence Northeasterly along said South right-of-way line for 174.1 feet more or less, to a point; run thence South to the Gulf of Mexico; run thence Southwesterly along the margin of the Gulf of Mexico to a point that is due South of the Point of Beginning; run thence North to the Point of Beginning.

**Parcel 12a:**

Commence at the intersection of the North right of-way line of Alabama Highway No. 182 and the East line of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter of Section 8, Township 9 South, Range 5 East; run thence South 75 degrees-59'-00" West along said North right-of-way line for 2300 feet, more or less, to the Point of Beginning; run thence North 00 degree-15'-00" West and parallel to the West line of said Section 8 for 700 feet, more or less; run thence South 88 degrees-11'-02" West for 626.78 feet to a point; run thence South 69 degrees-56'-17" West for 159.61 feet to a point; run thence South for 787.43 feet to a point on the North right-of-way line of said Highway 182; run thence Northeasterly along said North right-of-way line to the Point of Beginning.

**LESS & EXCEPT THE FOLLOWING DESCRIBED PROPERTY:**

Commencing at the Northwest corner of Fractional Section 17, Township 9 South, Range 5 East, Baldwin County, Alabama; run thence South 00 degree, 09' 30" West a distance of 487.86 feet to the North line of Alabama Highway No. 182; run thence North 75 Degree, 59' East along said North line a distance of 2166.25 feet to the point of beginning of the property herein described; run thence North 00 Degree, 01' 05" East a distance of 129.95 feet; run thence North 45 Degree, 00' 32" East a distance of 21.22 feet; run thence East a distance of 145.0 feet; run thence South 00 Degree, 01' 05" West a distance of 105.0 feet to the North line of Alabama Highway No. 182; run thence South 75 Degree 59' West along said North line, a distance of 164.92 feet to the point of beginning. Contains 0.45 acres, more or less.

**Parcel 13a:**

Commence at the intersection of the North right-of-way line of Alabama Highway No. 182 and the East line of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter of Section 8, Township 9 South, Range 5 East; run thence South 75 degrees-59'-00"

West along said North right-of-way line for 3958 feet, more or less, to the Point of Beginning; run thence North 400 feet to a point; run thence South 75 degrees-59'-00" West for 225 feet to a point; run thence South 400 feet to a point on the North right-of-way line of said Highway 182; run thence Northeasterly along said North right-of-way line to the Point of Beginning.

Parcel 14a:

Commence at the Southwest corner of Section 8, Township 9 South, Range 5 East; run thence South 00 degree-09'-30" West for 187.86 feet; run thence North 75 degrees-59'-00" East for 276.45 feet to the Point of Beginning; continue thence North 75 degrees-59'-00" East for 122.41 feet; run thence Northwardly along the arc of the curve to the left having a radius of 712.87 feet, a distance of 91.67 feet; run thence North 15 degrees-20'-00" West for 591.7 feet to a point of curvature; run thence Northerly along the arc of a curve to the right, having a radius of 274.01 feet, a distance of 43.9 feet; run then South 63 degrees-51'-54" West a distance of 226.3 feet, more or less, to a point on the west line of said Section 8; run thence South along said West line to the Southwest corner of said Section 8; run thence West along the North line of Section 18, Township 9 south, Range 5 East for 413.6 feet; run thence South for 669.4 feet to the North right-of-way line of Alabama Highway No. 182; run thence Northeasterly along said North right-of-way line to a point South 00 degrees-09'-30" West and 300 feet from the Point of Beginning; run thence North 00 degrees-09'-30" East for 300 feet to the Point of Beginning.

Parcel 15a:

Commence at the Northeast corner of Section 18, Township 9 South, Range 5 East; run thence West along the North line of said Section 18 for 706 feet to the Point of Beginning; continue thence West along said North line of Section 18 to the Northeast corner of Lot 1 of Block A of Subdivision 2 of Fractional Section 18, Township 9 South, Range 5 East; run thence South along the East line of said Lot 1 to the North right-of-way line of Alabama Highway No. 182; run thence Northeasterly along the said North right-of-way line to a point that is South and 740 feet from the Point of Beginning; run thence North for 740 feet to the Point of Beginning.

Parcel 16a:

Commence at the Southeast corner of the Northeast Quarter of the Northeast Quarter of Section 13, Township 9 South, Range 4 East for the Point of Beginning; run thence West along the South line of said Northeast Quarter of the Northeast Quarter and the Northwest Quarter of the Northeast Quarter of Section 13 to the

Southwest corner of the Northwest Quarter of the Northeast Quarter which point is on the North and South center line of said Section 13; run thence South along said North and South center line to a point that is North and 150 feet from the North right-of-way line of Alabama Highway No. 182; run thence South 75 degrees-00'-00" West for 51.7 feet; run thence South for 150 feet to the North right-of-way line of Alabama Highway No. 182; run thence Northeasterly along the said North right-of-way line to a point on the East line of Section 13; run thence North along the said East line to the Point of Beginning.

Parcel 17a:

Commence at a point where the North right-of-way line of Alabama Highway No. 182 intersects with the West line of Section 13, Township 9 South, Range 4 East; run thence North 68 degrees-00'-00" East along the said North right-of-way line for 188.2 feet to the Point of Beginning; run thence North for 150 feet; run thence North 68 degrees-00'-00" East for 323.52 feet; run thence South for 150 feet to the North right-of-way line of said Highway 182; run thence South 68 degrees-00'-00" West along the said North right-of-way line for 323.52 feet to the Point of Beginning.

Parcel 18a:

Commence at a point where the North right-of-way line of Alabama Highway No. 182 intersects with the West line of Section 13, Township 9 South, Range 4 East; run thence North 68 degrees-00'-00" East along the said North right-of-way line for 618.72 feet to the Point of Beginning; run thence North for 150 feet; run thence Northeasterly around a curve that is parallel to the center line of Alabama Highway No. 182 for 267.4 feet; run thence North for 150 feet; run thence Northeasterly around a curve that is parallel to the center line of said Highway 182 for 105.2 feet; run thence South for 150 feet; run thence Northeasterly around a curve that is parallel to the center line of said Highway 182 for 364 feet; run thence South for 150 feet to the North right-of-way line of Alabama Highway No. 182; run thence Southwesterly along the said North right-of-way line to the Point of Beginning.

LESS & EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

Commence at a point on the North right-of-way line of Alabama Highway No. 182, which point is 1591.29 feet West from the North and South centerline of Section 13, Township 9 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama, for the Point of Beginning; run thence North 00 degree-02'-22" East for 150.0 feet; run thence South 74 degree 35'-13" West for a chord distance of 52.07 feet; run thence South 00 degree 02'-22" West for 150.0 feet



to the North right-of-way line of said Alabama Highway No. 182; run thence North 74 degree 35'-13" East along the North right-of-way of said Alabama Highway No. 182 for a chord distance of 52.07 feet to the Point of Beginning. Said land being in Section 13, Township 9 South, Range 4 East, Baldwin County, Alabama.

**Parcel 19a:**

Commence at the Southeast corner of the Northeast Quarter of Section 14, Township 9 South, Range 4 East for the Point of Beginning; run thence West along the South line of the Southeast Quarter of the Northeast Quarter of Section 14 to the Northwest corner of the Northeast Quarter of the Southeast Quarter of Section 14; run thence South along the West line of said Northeast Quarter of the Southeast Quarter to the Southwest corner of the said Northeast Quarter of the Southeast Quarter; run thence West to a point on a line that is 1100 feet East of and parallel to the West line of Fraction "A" of Section 14, Township 9 South, Range 4 East; run thence South along said line to the North right-of-way line of Alabama Highway No. 182; run thence Northeasterly along said North right-of-way line to a point on the East line of Section 14; run thence North along said East line of Section 14 to the Point of Beginning.

The above Parcels (Parcels No. 1 — 19) being in Sections 8, 17, and 18 of Township 9 South, Range 5 East and Sections 13 and 14, Township 9 South, Range 4 East, Baldwin County, Alabama.

These descriptions are based on those legal descriptions contained within the Ordinances of the Town of Orange Beach No. 77, 81-86 and 88-90 as recorded in Real Book 267, Pages 372-375, Real Book 266, Pages 479-483 and Real Book 270, Pages 771-785 of the Baldwin County Probate Records; and a legal description contained within an Act passed by the Legislature of Alabama as Senate Bill No. 669.

**ALSO:**

Ordinances-110 Recorded Misc. Book 62, Pages 544-545

109 Recorded Misc. Book 61, Pages 1964-1965

106 Adopted 2/9/88 & Unrecorded

**Section 3.** The provisions of Section 2 of this act shall become operative only if approved by the qualified electors who reside within the territory above described, voting in a referendum election to be ordered by the probate judge of Baldwin county, within 10 days of the filing of the enactment of this legislation with the judge of probate, such election to be held not less than 20 nor more than 40 days from the date of the order of the election by the probate judge of Baldwin County. The election shall be held, conducted and the

results thereof canvassed in the manner prescribed by Article 3, Chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate. The question shall be substantially as follows: "Do you favor the adoption of Section 2 of Act No. \_\_\_\_\_, S.B. \_\_\_\_\_, of the 1989 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the Town of Orange Beach in Baldwin County? Yes \_\_\_\_\_ No \_\_\_\_\_." The Town of Orange Beach shall pay all of the costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes," the provisions of Section 2 of this act shall become operative immediately. If the majority are "No," Section 2 of this act shall have no further effect. Section 1 of this act shall become effective upon the effective date of this act as provided in Section 6 hereof. The election provided in Section 3 hereof shall not apply to Section 1 of this act.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:17 P.M.

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Act No. 89-963

S. 189—Senator Goodwin

## AN ACT

To amend Section 41-16-21.2, Code of Alabama 1975, which exempts certain state agencies whose principal business is honorariums from the competitive bid law, so as to provide further for such exemption.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-16-21.2, Code of Alabama 1975, is hereby amended to read as follows:

"§41-16-21.2.

"All laws to the contrary notwithstanding, any state department or agency whose principal business is honorariums is hereby exempted

from the provisions of the state competitive bid laws on purchases and contracts for services made by such department or agency.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1989

Time: 6:15 P.M.

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THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

FEBRUARY 1, 1988

**ORDER**

WHEREAS, the Standing Committee on Alabama Rules of Civil Procedure has recommended to the Court that a proposed amendment to Rule 5(d), Alabama Rules of Civil Procedure, be adopted by the Court; and

WHEREAS, the Court has considered the proposed amendment and deems it appropriate to adopt the amendment along with additional Court comments;

NOW, THEREFORE, IT IS HEREBY ORDERED that Rule 5(d), Alabama Rules of Civil Procedure, be, and it is hereby, amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall become effective immediately.

Torbert, C. J., Maddox, Jones, Almon, Shores, Beatty, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 12th day of February, 1988.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

**APPENDIX**

**ALABAMA RULES OF CIVIL PROCEDURE, RULE 5(d):**

(d) Filing. All papers after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter, but the court may on motion of a party or on its own initiative provide by written order that depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto not be filed unless on order of the court or for use in the proceeding. Proof of service of any paper except a requested written charge shall be upon certificate of the person executing the same. (Amended effective February 1, 1988.)

**Committee Comments to February 1, 1988,  
Amendment to Rule 5(d)**

This amendment to subdivision (d) is intended to permit courts in appropriate circumstances to dispense with the requirement for filing discovery material. Many courts are presently encountering severe constraints in storing litigation papers. These storage constraints and the expenses incurred by the courts in connection with the retention of discovery materials may make it appropriate for certain courts to utilize the option permitted under the amended subdivision and eliminate the necessity for filing all discovery material. If this option is exercised, the court should be careful to provide certain safeguards necessary to assure access to these discovery materials. Local Rule 17 (A-E) of the United States District Court for the Southern District of Alabama is an example of such safeguards.

**Court Comments to February 1, 1988,  
Amendment to Rule 5(d)**

If this option is exercised, the court's order must, at a minimum, contain the safeguards set out in Local Rule 17 of the United States District Court for the Southern District of Alabama. The court's order—in addition to other provisions—must substantially track the language of Rule 17 (A-E), adapting that language for application in the state court. Rule 17 (A-E), as it existed at the time of the adoption of this amendment to Rule 5(d), provided, as follows:

**“RULE 17. CIVIL DISCOVERY MATERIALS  
AND EXHIBITS**

“Unless the Court directs otherwise, in all civil actions other than inmate complaints challenging the conditions of confinement:

“A. Interrogatories, requests for production, requests for admissions and responses thereto, and notices of depositions shall be served in accordance with Rule 5(b), FED.R.CIV.P., but shall not be filed with the Clerk except upon order of the Court or for use at trial or in connection with motions. The party responsible for service of the discovery material shall retain the original and become custodian.

“B. No depositions shall be filed with the Clerk unless the Court directs otherwise, or unless in support of or in opposition to a motion. Counsel who notices a deposition shall be the custodian of the deposition and shall maintain the original for filing if the Court so directs.

“C. If discovery materials are germane to any motion or response, only the relevant material shall be filed with the motion or response.

“D. Whenever any discovery material (request, response, notice) is served, counsel shall contemporaneously deliver to the Clerk a notice identifying the date of service and the nature of the material served or, the first and last page of the document served including the certificate of service. These notices shall be maintained by the Clerk with the civil action file but will not be docketed.

“E. During the pendency of any case the custodian of any discovery material shall provide to counsel for all other parties reasonable access to the material and an opportunity to duplicate the material at the expense of the copying party, and any other person may, with leave of Court, obtain a copy of any discovery material from its custodian upon payment of the expense of the copy.”

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

November 18, 1988

**ORDER**

WHEREAS, Judge Joe Gilliland, District Judge of Franklin County, Alabama, has transmitted to the Administrative Office of Courts a proposed schedule of fines pursuant to Rule 20(B), Alabama Rules of Judicial Administration, and to the same having been duly submitted to the Court; and

WHEREAS, the Court has considered the proposed schedule and deems it appropriate to approve the schedule of fines:

NOW, THEREFORE, IT IS HEREBY ORDERED that the proposed schedule of fines is approved by the Supreme Court of Alabama, and is adopted to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that the schedule of fines shall become effective December 2, 1988.

Torbert, C. J., Maddox, Jones, Almon, Shores, Beatty, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy

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of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 21st day of November, 1988.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

# 1936

## Attachment "A"

### FRANKLIN COUNTY DISTRICT COURT SCHEDULE OF FINES

<u>Code Section or Regulation</u>	<u>Description of Offense</u> <u>TRAFFIC OFFENSES</u>	<u>Fine</u>
32-5-65	Allowing Minor to Drive	\$50.00
32-5-75	Improperly Secured Loads	25.00
32-5-76	Sifting Load, Spilling Load	25.00
32-5-210	Improper Tires	20.00
32-5-211	No Red Flag or Light	20.00
32-5-214	Improper or No Rear View Mirrors	20.00
32-5-222	No Child Restraints	10.00
32-5-240	Improper Lights	
32-5A-137	Blocking Highway	30.00
32-5A-221	Pedestrian Under Influence	10.00
32-6-9	Drivers License Not in Possession	10.00
32-6-52	Improper, Switched or Expired Tag	25.00
32-6-12(d)	Violation Driving Restriction	10.00
	<u>REVENUE VIOLATIONS</u>	
40-12-198	Transporting gasoline in vehicle improperly marked	10.00
40-12-150	Have license plates issued to another vehicle	50.00
40-17-150	Have no fuel identification marker	25.00
	<u>PUBLIC SERVICE VIOLATIONS</u>	
17.58 <sup>1</sup>	Improper Log Book	20.00
17.390(a) <sup>1</sup>	No Operative Fire Extinguisher	20.00
17.391 <sup>1</sup>	Sifting Load	20.00
17.395 <sup>1</sup>	No Mudflaps on Truck	20.00
17.385 <sup>1</sup>	Missing Mudflap on Truck	20.00
19.2 <sup>1</sup>	No APSC Registration of State Stamp	20.00



# 1937

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
	<u>FEDERAL MOTOR CARRIER SAFETY VIOLATIONS</u>	
	<u>I. MECHANICAL DEFECTS</u>	
393.11 <sup>2</sup>	Lighting Requirements and Reflectors	\$50.00
393.30 <sup>2</sup>	Battery Installation	50.00
393.52 <sup>2</sup>	Brakes	50.00
393.60 <sup>2</sup>	Cracked Windshield	50.00
393.65 <sup>2</sup>	Fuel Systems	50.00
393.75 <sup>2</sup>	Tires	50.00
393.78 <sup>2</sup>	Windshield Wipers	50.00
393.80	Rear View Mirrors	50.00
393.86 <sup>3</sup>	Rear End Protection	50.00
393.87 <sup>2</sup>	Flags on Projecting Loads	50.00
393.95 <sup>2</sup>	Emergency Equipment Required	50.00
393.100 <sup>2</sup>	Load Securement	50.00
	<u>II. DRIVER QUALIFICATION</u>	
391.41 <sup>2</sup>	Medical Cards Required	20.00
	<u>III. DRIVING OF MOTOR VEHICLES</u>	
392.3 <sup>2</sup>	Ill or Fatigued Operator	50.00
392.5 <sup>2</sup>	Possession of Alcohol	50.00
392.9 <sup>2</sup>	Safe Loading	50.00
392.14 <sup>2</sup>	Caution During Bad Weather	50.00
392.16 <sup>2</sup>	Seat Belt Use Required	20.00
392.20 <sup>2</sup>	Unattended Vehicle	50.00
392.61 <sup>2</sup>	Unauthorized Passengers	20.00
392.60 <sup>2</sup>	Unauthorized Driver	50.00

# 1938

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
	<u>IV. HOURS OF SERVICE</u>	
395.8 <sup>2</sup>	Drivers Log Required	50.00
395.13 <sup>2</sup>	Drivers Out of Service	50.00
	<u>V. INSPECTION AND MAINTENANCE</u>	
396.7 <sup>2</sup> -----	Unsafe Operation Prohibited	\$50.00

<sup>1</sup> Alabama Public Service Commission, Motor Carrier General Orders, Rules and Regulations.

<sup>2</sup> U. S. Department of Transportation Federal Highway Administration, Federal Motor Carrier Safety Regulations.

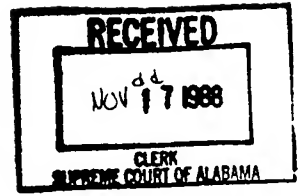
# 1939

## VIOLATION OF FISHING AND GAME

<u>Code Section or Regulation</u>	<u>Description of Offenses</u>	<u>Fine</u>
	<u>HUNTING VIOLATIONS</u>	
9-11-51(a)	Resident of Alabama (hunting without license)	\$25.00
220-2-.02 <sup>1</sup>	Hunting with Prohibited Firearms	50.00
220-2-.18 <sup>1</sup>	Possession over Limit - (Doves & Duck only)	25.00 +5.00 bird over limit
9-11-238	Hunting Wild Turkey with Dogs	50.00
9-11-254	Exceeding Limit on Number of Traps for Taking Fur-Bearing Animals	25.00
9-11-237	Sale, Purchase or Barter of Game Birds or Game Animals	250.00
9-11-232	Possession, Sale, Purchase of Protected Wild Birds	25.00
220-2-.85 <sup>1</sup>	Hunting Without Proper Amount of Orange on Coat or Cap, All Offenses	25.00
	<u>FISHING VIOLATIONS</u>	
9-11-57	Fishing Without a License	10.00
	Fishing Without Permit	25.00
220-2-.35 <sup>1</sup>	Catching or Taking over the Limit of Fish	75.00
9-11-171	Spearing of Commercial of Non-Game Fish Without license; Spearing Game Fish	25.00
220-2-.36(3) <sup>1</sup>	Taking Undersize Bass in County Lake	25.00

<sup>1</sup> Alabama Department of Conservation and Natural Resources, Game and Fish Division Regulations.

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<u>Code Section or Regulation</u>	<u>Description of Offense</u>
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MISCELLANEOUS

Fine

13A-7-29	Littering	\$100.00
13A-11-19	Public Intoxication	25.00
33-15-7	No BCDA Permit	10.00

1941

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

December 6, 1988

**ORDER**

WHEREAS, the Standing Committee on the Alabama Rules of Appellate Procedure has recommended certain proposed amendments to Rules 21 and 39 of the Alabama Rules of Appellate Procedure; and

WHEREAS, the Court has considered those proposed amendments and deems it appropriate to adopt those amendments and Rule 39(1);

NOW, THEREFORE, IT IS HEREBY ORDERED that Rules 21 and 39 of the Alabama Rules of Appellate Procedure be, and they hereby are, amended to read in accordance with those appendices A and B, respectively, which appendices are attached to this order and made a part thereof;

IT IS FURTHER ORDERED that these amendments shall become effective December 6, 1988.

Torbert, C. J., Maddox, Jones, Almon, Shores, Beatty, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 6th day of December, 1988.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

**APPENDIX B**

**ALABAMA RULES OF APPELLATE PROCEDURE  
RULE 39**

- (a) **Method.** Decisions of the courts of appeals may be reviewed by the supreme court upon petition for writ of certiorari only after the court of appeals has overruled an application for rehearing on the point, issue, or decision complained of, except that, in the case of a pre-trial appeal by the state in a criminal case, either party may petition for writ of certiorari without having first applied for a rehearing in the court of criminal appeals, and in cases governed by Rule 21(e) an application for rehearing in a court of appeals is not a prerequisite for review in the supreme

court. Payment of the amount prescribed in Rule 35A(3) shall be made to the clerk of the supreme court at the time the petition for writ of certiorari is filed. (Amended effective December 1, 1978; April 1, 1984; December 6, 1988.)

- (1) **Review in Supreme Court of Decisions of Courts of Appeals on Petitions for Extraordinary Writs.** A party aggrieved by a decision of a court of appeals on a petition for writ of mandamus or prohibition or other extraordinary writ is entitled to review in the supreme court as provided in Rule 21(e). (Added by amendment effective December 6, 1988.)

**Court Comment to Amendment to 39(a) and  
Addition of 39(1), effective December 6, 1988.**

In cases governed by Rule 21(e), application for rehearing is not a prerequisite to review in the supreme court; the aggrieved party has the choice of proceeding by way of application for rehearing and their petition for writ of certiorari under Rule 39 or applying for immediate review in the supreme court under Rule 21(e) without filing an application for rehearing.

APPENDIX A

ALABAMA RULES OF APPELLATE PROCEDURE  
RULE 21

- (e) Review in Supreme Court of Decisions of Courts of Appeals.
  - (1) Decisions of a court of appeals on an original petition for writ of mandamus or prohibition or other extraordinary writ (i.e., a decision on a petition filed in the court of appeals) may be reviewed de novo in the supreme court, and an application for rehearing in the court of appeals is not a prerequisite for such review. If an original petition for extraordinary relief has been denied by the court of appeals, review may be had by filing a similar petition in the supreme court (and, in such a case, in the supreme court, the petition shall seek a writ directed to the trial judge). If an original petition has been granted by the court of appeals, review may be had by filing in the supreme court a petition for writ of mandamus or prohibition or other extraordinary writ directed to the court of appeals, together with a copy of the proceedings in the court of appeals, including the order granting the writ.
  - (2) Such review in the supreme court of a grant or denial must be commenced by filing the petition in the supreme court within fourteen (14) days of the grant or denial of the writ by the court of appeals. Procedures on such review shall

conform to the provisions of subdivisions (a), (b), and (c) of this rule where those subsections are applicable.

- (3) Without regard to whether the court of appeals has issued an opinion, rehearing may be sought in the court of appeals, but if a rehearing is sought, then review in the supreme court shall be by petition pursuant to Rule 39; provided, however, that a party that has begun the Rule 39 process by filing an application for rehearing can withdraw that application and seek review by the supreme court under this rule instead of under Rule 39, if the withdrawal of the rehearing application is made within the fourteen (14) days allowed by subsection (e)(2) for seeking supreme court review and before the court of appeals has ruled on the application, and provided further, that a petition allowed by (e)(1) is filed in the supreme court within that time.
- (4) The term "extraordinary writ" within the meaning of this rule encompasses the situation where a party seeks emergency and immediate appellate review of an order which is otherwise interlocutory and not appealable. This rule does not apply to those cases where review in a court of appeals is normally had by way of an extraordinary writ. Such excluded cases include review by certiorari of contempt orders, workmen's compensation decisions, decisions of certain administrative agencies, and review of decisions of the three-judge Jefferson County panel or decisions of the Jefferson County Personnel Board. A petition under Rule 20, Temporary Alabama Rules of Criminal Procedure is not an "extraordinary writ" within the meaning of this rule.

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

December 8, 1988

**ORDER**

WHEREAS, Judge Thomas B. Woodard, IV, District Judge of Pickens County, Alabama, has transmitted to the Administrative Office of Courts a proposed schedule of fines pursuant to Rule 20(B), Alabama Rules of Judicial Administration, and the same having been duly submitted to the Court; and

WHEREAS, the Court has considered the proposed schedule and deems it appropriate to approve the schedule of fines;

NOW, THEREFORE, IT IS HEREBY ORDERED that the proposed schedule of fines is approved by the Supreme Court of

Alabama, and is adopted to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that the schedule of fines shall become effective December 14, 1988.

Torbert, C. J., Maddox, Jones, Almon, Shores, Beatty, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 8th day of December, 1988.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

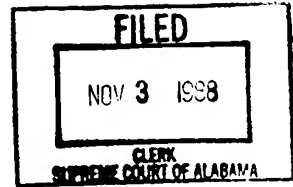


1945

ORIGINAL

APPENDIX "A"

MAGISTRATES' FINE SCHEDULE - PICKENS COUNTY



<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
13A-7-29(a)(4)	Littering Highway	\$100.00
13A-8-61,62	Shopping carts, removal, abandonment	100.00
13A-8-121	Theft of cable TV services	200.00
13A-9-16,17	Unlawfully using slugs	100.00
13A-10-6	Refusing to assist in fire control	100.00
13A-11-9	Loitering	50.00
13A-11-10	Public intoxication	50.00
13A-11-222	Unlawfully refusing to yield party line	50.00
13A-11-223	Falsely requesting use of party line for emergency	50.00
13A-11-224	Storing gunpowder in city or town	100.00
13A-13-2	Adultery	250.00

TRAFFIC

32-5A-50	Unattended motor vehicle	25.00
32-5A-51	Improper backing	20.00
32-5A-52	Driving on sidewalk	20.00
32-5A-53	Obstruction to driver's view	20.00
32-5A-57	Coasting	20.00
32-5A-58	Following emergency vehicle	50.00
32-5A-59	Crossing fire hose	50.00
32-5A-115	Failure to yield to emergency vehicles	50.00
32-5A-136,137	Parking on public road	30.00
32-5A-154	Passing school/church bus	100.00
32-5A-221	Pedestrian under the influence	10.00
32-5A-216	Hitchhiking	10.00
32-6-52	Improper tag	25.00
32-6-155	Switched personalized tag	100.00
32-9-20	Overweight load	100.00
32-9-20	Overheight load	100.00
32-9-20	Overwidth load	100.00
32-9-29	No permit (width, height, length)	100.00
32-9-31	Refusal to weigh	300.00

TRUCKING OFFENSES<sup>1</sup>

391.11(b)(7)	Using a driver without a current valid operator's license or permit	100.00
391.41	Driver failing to have medical examiner's certificate (Med Card)	20.00
392.16	Driver failing to use seat belts	20.00
393.19	Failing to equip vehicle with turn signals	10.00

<sup>1</sup>-----  
U.S. Department of Transportation Federal Highway Administration, Federal Motor Carrier Safety Regulations.

# 1946

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
393.24	Failing to equip bus, truck or truck- tractor with two head lamps	10.00
393.25	Failing to equip vehicle with operative stop lamps	10.00
393.30	Batteries not covered	50.00
393.33	Poor electrical wiring on - electric brakes	10.00
393.42	Failing to equip vehicle with required brakes	25.00
393.45(a)(4)	Failing to secure brake hose or tubing against chafing, kinking or other damage	10.00
393.46(b)	Leaks, constructions, or other defects - brake, hose, or tubing connections	10.00
393.47	Failing to equip vehicle with adequate brake linings	10.00
393.48	Failing to equip vehicle with operative brakes (use if brakes don't work)	50.00
393.51	Failing to equip brake system with warning device	25.00
393.65(c)	Failing to securely attach fuel tank to a motor vehicle	50.00
393.67(c)(7)(iii)	Failing to equip fuel tank with a securely fitted cap	25.00
393.67(d)(2)(ii)	Failing to equip vehicle with a fuel tank free of leaks	50.00
393.75(a)	Fabric or cords exposed thru tire tread or sidewall;	50.00
393.75(b)	Steering axle tires have less than 4/32 inch tread groove pattern depth	50.00
393.75(c)	Tires other than steering have less than 2/32 inch tread groove depth	50.00
393.75(d)	Bus with regrooved, recapped or retreaded tire on steering axle	50.00
393.75	Tire is flat or has audible leak	50.00
393.70(b)(i)	Lower fifth wheel - any defect or violation	50.00
393.70(b)(ii)	Any violation or defect involving upper fifth wheel or king pin	50.00
393.78(a)	Failing to equip bus, truck or truck- tractor with two windshield wipers	50.00
393.92	Emergency Exits marked	25.00
393.93	Failing to equip vehicle with a seat belt for the driver	10.00
393.100	Failing to load or equip vehicle to prevent shifting or falling of cargo	50.00
393.106(a)	Header board required	25.00
393.83(a)	Operating a vehicle with an improperly located exhaust system	50.00
393.83(b)	Gas powered bus with exhaust discharging less than 6 inches back of rear	50.00

1947

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
393.83(b)(1)	Diesel bus with exhaust discharging less than 15 inches from the rear	50.00
393.83(c)	Truck or truck-tractor with exhaust not discharging at rear of cab	50.00
395.3(a)(1)	Requiring or permitting driver to drive more than 10 hours	100.00
395.3(a)(2)	Requiring or permitting driver to drive after having been on duty 15 hours	100.00
395.3(b)	Driving after having been on duty 60 or 70 hours in 7 or 8 consecutive days	100.00
395.8(k)(3)	No duty status record in driver's possession	50.00
395.8(a)	Duty status record - form and manner	50.00
395.8(e)	False duty status record	50.00
395.8(f)(1)	Duty status record not current to time of last change of duty status	50.00
395.8(k)(3)	Statement of drivers on duty time for last 7 days	50.00
395.13	No duty status record for first 5 days of current 7 day period	50.00
395.13(d)	Out of service driver operating a motor vehicle	50.00
396.11(c)(1)	Failing to certify that repairs were made or were not necessary	10.00
396.11(c)(3)	Failing to carry copy of last vehicle inspection report on vehicle	10.00
396.13(c)	Failing to require driver to sign vehicle inspection report	10.00
397.19(a)(1)	Driver of vehicle containing class A or B explosives not furnished copy of part 397	100.00
397.9(b)	Failing to prepare route plan for vehicle containing class A or B explosives	200.00

TRUCKING OFFENSES<sup>2</sup>

172.205(a)	Offering-transporting-transferring-delivering haz. waste no proper manifest	200.00
172.205(c)	Failing to have haz. waste manifest copy dated & signed by carrier & shipper	150.00
172.332(b)	Failing to display orange ID panel in conformance with requirements	150.00
172.332(a)	Failing to display ID number on placard in conformance with requirements	150.00
172.336(b)	Failing to properly display ID number for HM in haz. class not requiring placards	200.00

<sup>2</sup> -----  
Title 49, CFR

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
172.502(a)	Placarding a vehicle which is not transporting a HM	50.00
173.33(a)	Transporting HM in an unauthorized cargo tank	500.00
177.801	Transporting or accepting shipment of HM not in proper condition for trans- portation	500.00
177.817(a)	Transporting shipment of HM without properly prepared shipping paper	150.00
177.817(e)	Failing to maintain proper accessibility of shipping papers	150.00
177.823(a)	Failing to placard motor vehicle	200.00
177.870	Transporting unauthorized HM in a passenger carrying vehicle	500.00

MOTOR CARRIER REGULATIONS<sup>3</sup>

3.3(a)	Spot Lease not displayed	10.00
3.21(d)8	No Form D Cab Card	25.00
3.21(d)8	Improper Form D Cab Card	10.00
3.21(f)	No state stamp	25.00
3.21(f)	Improper state stamp	10.00
3.21(k)	No spot lease decal	25.00
3.21(k)	Improper spot lease decal	10.00
12(b)	No trip lease	10.00
12(e)	Removal of trip lease decal	25.00
17.3	Improper lamps, lights, reflectors	10.00
17.25(a)	Driver "out-of-service"	100.00
17.34	Improper brakes (all axles equipped)	25.00
17.53	Exceeding hours, driver	100.00
17.58(a)	No log book	20.00
17.59(iv)	Out-of-service (36 hours late)	50.00
17.64	Unsafe Operations (cumulative)	100.00
17.65(c)	Operating out-of-service vehicle	100.00
17.70	Hazardous material, marking	100.00
17.220	Unattended vehicle, brakes	25.00
17.365	Improper fuel lines	10.00
17.376	Improper tires	10.00
17.378	Improper windshield (cracked)	50.00
17.379	Improper windshield wipers	10.00
17.380	Improper mirrors	10.00
17.381	Improper horn	10.00
17.382	Improper speedometer	10.00
17.385	Improper mud flaps	20.00

<sup>3</sup> -----  
Alabama Public Service Commission, Motor Carrier General Orders, Rules  
and Regulations.

# 1949

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
17.390A	Improper, no fire extinguisher	20.00
17.390B	No spare fuses	10.00
17.391	Shifting, Sifting, falling cargo	20.00
19.728	Unauthorized driver; employee/agent	50.00
19.728	Unauthorized driver; other	100.00
<u>REVENUE VIOLATIONS</u>		
40-12-265	Mutilation/alteration of tag	50.00
40-17-150	No fuel ID marker	25.00
<u>CONSERVATION</u>		
9-11-45	Hunting on management area without management area license (resident)	25.00
9-11-51(a)	Hunting without a license (resident)	25.00
9-11-57	Fishing without a license	10.00
9-11-59(b)	Trapping with untagged traps	50.00
9-11-59(a)	Trapping without license	100.00
9-11-87	Taking game fish by means other than hook and line	100.00
9-11-91(b)	Taking fish in private ponds, without a permit, by seining netting, dynamiting, or poisoning	200.00
9-11-91(b)	Taking fish from private ponds, without a permit, by traps, hook and line, or rod and reel	25.00
9-11-93	Taking fish from public waters by poisons or explosives	100.00
9-11-232	Possession, purchase, etc. of protected birds, their eggs, plumage, or any body part	25.00
9-11-232	Sale of protected birds, their eggs, plumage, or any body part	25.00
9-11-237	Selling, buying, or offering to, any part of game bird or animal	250.00
9-11-239	Hunting, pursuing, capturing, killing, or the attempt to, any doe deer, hen turkey, or antlerless male deer	200.00
9-11-266	Failure to check traps within time limit	50.00

1950

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
220-2-.01 <sup>4</sup>	Running dogs in area of and during spring turkey season	100.00
220-2-.01(a) <sup>4</sup>	Running deer with dogs during stalk only season	200.00
220-2-.02 <sup>4</sup> or 220-2-.09 <sup>4</sup>	Using illegal firearms or ammunition	50.00
220-2-.02(3) <sup>4</sup>	Hunting migratory game birds with unplugged guns	50.00
220-2-.07 <sup>4</sup>	Hunting outside of legal hours	150.00
220-2-.09 <sup>4</sup>	Refusal to submit firearm for inspection	150.00
220-2-.10 <sup>4</sup>	Possession of firearms while bow hunting	150.00
220-2-.11 <sup>4</sup>	Hunting from a vehicle	200.00
220-2-.11(6) <sup>4</sup>	Using or possessing decoy while turkey hunting	50.00
220-2-.12 <sup>4</sup>	Refusing to allow inspection of hunting coat, game bag, etc.	100.00
220-2.14 <sup>4</sup>	Taking non-buck deer	250.00
220-2-.15 <sup>4</sup>	Destroying sex of deer or turkey	200.00
220-2-.18 <sup>4</sup>	Possession of over legal bag limit	200.00
220-2-.21 <sup>4</sup>	Possession of bow or firearm on management areas without a permit	25.00
220-2-.31 <sup>4</sup>	Hanging or suspending bait over or within 25 feet of trap	100.00
220-2-.35 <sup>4</sup>	Exceeding creel limit	75.00
220-2-.36(2) <sup>4</sup>	Taking fish from public lakes without permit	10.00
220-2-.44 <sup>4</sup>	Taking of fish by prohibited means	200.00
220-2-.55(1)(a) <sup>4</sup>	Hunting, etc., on management area without permit	25.00
220-2-.55(1)(i) <sup>4</sup>	Possession of loaded firearm in vehicle while on management area	25.00
220-2-.85 <sup>4</sup>	Failure to wear hunter orange	25.00

<sup>4</sup> -----  
Regulations of the Department of Conservation and Natural Resources, Game  
and Fish Division.

<u>Code Section or Regulation</u>	<u>Description of Offense</u>	<u>Fine</u>
<u>WATER SAFETY</u>		
33-5-9	Operating vessel without current registration displayed	\$ 10.00
33-5-22	Improper, no, flags; vessel	10.00
33-5-23	Improper muffler on vessel	10.00
33-5-23	Improper siren on vessel	10.00
33-5-26(a)	Water skis, no observer on towing vessel	25.00
33-5-26(b)	Water skis, improper hours	50.00
2-1.5	Rented/leased vessel; lease on board	10.00
3-1.5	Vessel; no vessel ID number	25.00
3-3.5	Vessel; current year decal	10.00
7-1(1-3)5	Vessel; improper passing	10.00
7-1(4-7)5	Vessel; failure to yield	10.00
7-1(8)5	Vessel; abrupt change of course	20.00
7-1(9)5	Vessel; failure to slow in face of uncertain course of approaching vessel	10.00
7-1(10)5	Failure of yielding vessel to slow, stop or reverse, etc.	10.00
7-1(11)5	Vessel; failure to issue warning signal	10.00
7-1(12)5	Vessel; improper circling	20.00
7-1(13)5	Vessel; failure to keep right	10.00
7-1(14)5	Vessel; creating hazardous wake	25.00
7-1(16)5	Vessel; unreasonable speed	20.00
7-1(17)5	Vessel; blocking navigation	50.00
85	Vessel; improper signal devices	10.00
95	Vessel; improper lights	10.00
105	Vessel; improper, no fire extinguisher	10.00
115	Operating vessel with insufficient number of life preservers aboard	25.00
165	Water skier; no life preserver	10.00
19-1.5	Vessel; operator under 12	20.00
205	Vessel; carburetor, no flame arrester or backfire trap	20.00
215	Vessel; excessive noise level (86 decibels)	10.00

5 -----  
Regulations of the Department of Conservation and Natural Resources, Marine  
Police Division.

## TRAFFIC

- 32-6-155      Offense should read "Switched Personalized Tag" instead of "Switched Tag".

## TRUCKING OFFENSES

- 391.11(a)(7)      Should read 391.11(b)(7).
- 391.41      Fine should read \$20.00 instead of \$10.00 to remain consistent with previously approved schedules.
- 392.16      Fine should read \$20.00 instead of \$5.00 to remain consistent with previously approved schedules.
- 393.30      Fine should read \$50.00 instead of \$10.00 to remain consistent with previously approved schedules.
- 393.65      Should read 393.65(c).
- 393.75(a)      Fine should read \$50.00 instead of \$10.00 to remain consistent with previously approved schedules.
- 393.75(b)      Fine should read \$50.00 instead of \$25.00 to remain consistent with previously approved schedules.
- 393.75(c)      Fine should read \$50.00 instead of \$25.00 to remain consistent with previously approved schedules.
- 393.75      Fine should read \$50.00 instead of \$25.00 to remain consistent with previously approved schedules.
- 393.78(a)      Fine should read \$50.00 instead of \$10.00 to remain consistent with previously approved schedules.
- 395.8(3)      Should read 395.8(k)(3).
- 395.8      Should read 395.8(a) and the fine should read \$50.00 instead of \$25.00 to remain consistent with previously approved schedules.
- 395.8(e)      Fine should read \$50.00 instead of \$100.00 to remain consistent with schedules previously approved.
- 395.8      Should read 395.8(f)(1) and the fine should read \$50.00 instead of \$25.00 to remain consistent with previously approved schedules.
- 395.13(d)      Fine should read \$50.00 instead of \$100.00 to remain consistent with previously approved schedules.
- 397.9(b)      Following this section and before §72.205(a), there should be a heading "Trucking Offenses" with a footnote that the remaining citations are to Title 49 of the Code of Federal Regulations.



- 173.33            Should read 173.33(a).
- 177.817          Should read 177.817(a).
- Motor Carrier Regulations should show a <sup>3</sup> instead of a <sup>2</sup> -  
footnote should reflect the same.
- 12(b)/12(e)      Should read 12(b).
- 12(b)/12(e)      Should read 12(e).
- 17.58            Should read 17.58(a).
- 17.59            Should read 17.59(iv).
- 17.365F          Should read 17.365.
- 17.378           Fine should read \$50.00 instead of \$10.00 to remain  
consistent with previously approved schedules.
- 17.391B          Should read 17.391.

1954

STATE OF ALABAMA — JUDICIAL DEPARTMENT  
SUPREME COURT OF ALABAMA

**ORDER**

TO THE HONORABLE EUGENE W. CARTER, RETIRED  
CIRCUIT JUDGE, MONTGOMERY, ALABAMA.

Under and by virtue of the authority granted me in Section 6.10 of Constitutional Amendment No. 328, Constitution of Alabama 1901, as amended, you are hereby appointed to preside as an active circuit judge of the 15th Judicial Circuit of Alabama on January 12, 1989, for the purpose of administering the oath of office required by state law to the Honorable John W. Davis, III, upon his assuming office for the term commencing on January 17, 1989, as a circuit judge of the 15th Judicial Circuit of Alabama, and your authority in regard to this function will be as complete as that of a regular circuit judge of the 15th Judicial Circuit of Alabama.

This temporary assignment shall be served without compensation or reimbursement of expenses.

ORDERED at Chambers this 10th day of January, 1989.

C. C. TORBERT, JR.  
Chief Justice

cc: Judge H. Randall Thomas  
Judge John W. Davis, III  
Ms. Debra P. Hackett  
Mr. William R. Merrill  
AOC File

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

JANUARY 25, 1989

**ORDER**

WHEREAS, the Administrative Office of Courts has recommended to this Court that Rule 19, Alabama Rules of Judicial Administration, be amended by the adoption of a new series of the "Alabama Uniform Traffic Ticket and Complaint," and

WHEREAS, the Court has considered that recommendation and deems it appropriate to make the recommended revision,

It is ORDERED, effective this date, that Rule 19, Alabama Rules of Judicial Administration, be amended by deleting, as Attachment One, Form UTC-1 as revised January 1986 (Series K, Uniform Traffic

Ticket and Complaint) and substituting therefor, as Attachment One, Form UTC-1 as revised January 1989 (Series L, Uniform Traffic Ticket and Complaint), a copy of which is attached to and made a part of this order.

DONE and ORDERED this 25th day of January 1989.

Hornsby, C. J., Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 25th day of January, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

1956

## Attachment One

FORM UTC-1 REV 1/69		<b>ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT</b>				COURT CASE NO	
		+      +		+      +			
ALABAMA, COUNTY OF		CITY		TICKET NUMBER		YEAR      NUMBER	
		CITY		L			
The undersigned, being duly sworn, deposes and says that he/she has probable cause to believe and does believe that the person herein named did within the previous 12 months commit the offense set forth contrary to law in that: on or about      Month      Day      Year      At      Time      :						<b>COMPLAINT AND AFFIDAVIT</b>	
First Name      Middle/Maiden      Last      AM      PM      MT							
Address      Street							
City		State		Zip Code			
State	Driver's License Number			Class			
Sex	Race	Birthday Mo      Day      Year	Social Security Number		Vehicle	Commercial Private	
Height	Weight	Eyes	Hair	Vehicle Tag Number		State	Year
Vehicle Description (Year, Make, Type, Color)				Owner of Vehicle <input type="checkbox"/> Driver <input type="checkbox"/> Employer <input type="checkbox"/> Other			
Employer/Owner of Vehicle (Address)							
Did unlawfully operate a motor vehicle <input type="checkbox"/> within the city limits or police jurisdiction of      or <input type="checkbox"/> in      County upon the following public street, road or highway, or other place at or near (Describe location)      Mile Post Number      Street or Road Code							
in violation of <input type="checkbox"/> State Code      (OR)							
<input type="checkbox"/> Municipal Ordinance No.      duly adopted and in force at the time the offense was committed, <input type="checkbox"/> (If Applicable) adopting Section      Code of Alabama 1975							
More particularly described in DESCRIPTION OF OFFENSE section below (See circle of description of offense)							
Subject to and authorized by		Month      Day      Year		Complainant's Signature:			
SIGNATURE AND TITLE		Officer I.D.		Agency O.R.I.			
<b>COURT APPEARANCE INFORMATION</b>							
<input type="checkbox"/> Municipal		Circuit Court of		Room    1			
Court Appearance Date		Time		Court Address			
Mo	Day	Year	AM	PM			
<input type="checkbox"/> Released on Own Recognizance <input type="checkbox"/> Driver's License Posted in Lieu of Bond							
I PROMISE TO APPEAR IN COURT AT SAID TIME AND PLACE OR OTHERWISE COMPLY WITH THE PROVISIONS OF THIS COMPLAINT AND INSTRUCTIONS ON THE REVERSE OF THIS TICKET							
Defendant's Signature				Phone (      )			
<b>DESCRIPTION OF OFFENSE</b>							
CIRCLE APPROPRIATE SQUARE							
1      Speeding      MPH      Zone		5      Failing to Yield Right of Way					
2      Reckless Driving		DRIVING WHILE LICENSE OR PRIVILEGE IS:					
3      Driving Without First Obtaining A Driver's License		7      Revoked		8      Suspended		9      Cancelled	
DO DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE:		RUNNING:		10      Red Light		12      Stop Sign	
4      There Was 10% or More by Weight of Alcohol in My/Her Blood		11      Driving on Wrong Side of Road		IMPROPER: (A) Muffler (B) Lights			
5      Under the Influence of Alcohol		13      IMPROPER: (C) Tires (D) Mirror (E) Brakes					
6      Under the Influence of Controlled Substances		14      Passing		16      Tag		18      Turn	
7      Under the Combined Influence of Alcohol and a Controlled Substance		19      Overweight Vehicle		OTHER VIOLATIONS/SPECIFY			
8      Under the Influence of any substance which impairs the Mental or Physical Faculties		(AND OFFICER'S REMARKS)					
ACCIDENT INFORMATION:		1      2      3					

DO NOT WRITE IN THIS SPACE

CASE #

TICKET #

CASE #

INSTRUCTIONS  
TO OFFICER:

PRESS HARDLY.

ASK IF MOTORIST'S ADDRESS IS CORRECT ON DRIVER'S LICENSE

1957

COURT RECORD				COURT CASE NO	
COURT ACTION AND DISPOSITION					
				YEAR	NUMBER
IN THE <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> DISTRICT		COURT OF _____		TICKET NUMBER <u>L</u>	
DEFENDANT'S NAME _____				CHARGE _____	
BAIL SET AT \$ _____	CASH BAIL DEPOSITED \$ _____	<input type="checkbox"/> DRIVER'S LICENSE DEPOSITED IN LIEU OF BOND		<input type="checkbox"/> RELEASED ON OWN RECOGNIZANCE	
CONTINUED TO _____		REASON _____			
DATE WARRANT ISSUED _____		DATE SERVED _____		<input type="checkbox"/> RESPONDED TO FTA NOTICE	
COURT DATE _____		COURT OR I _____		AL           J	
ATTORNEY FOR DEFENDANT _____		CHECK APPROPRIATE BLOCK IF APPLICABLE <input type="checkbox"/> Defendant informed of right to counsel, voluntarily waived counsel <input type="checkbox"/> Defendant found indigent, counsel appointed			
PLEA OF DEFENDANT: <input type="checkbox"/> Guilty as charged <input type="checkbox"/> Guilty of _____ <input type="checkbox"/> Not Guilty					
ADJUDICATION: (circle one) <input type="checkbox"/> Guilty as charged <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty of _____ <input type="checkbox"/> Not-prossed <input type="checkbox"/> Dismissed					

### ORDERS OF THE COURT

<input type="checkbox"/> FINE \$ _____		+ COURT COSTS \$ _____		= TOTAL \$ _____	
<input type="checkbox"/> JAILED _____ Days _____ Mos. _____		LOCATION _____			
<input type="checkbox"/> SENTENCE SUSPENDED _____ Days _____ Mos. _____		<input type="checkbox"/> PROBATION _____ Days _____ Mos. _____			
<input type="checkbox"/> COMMUNITY SERVICE _____ Days _____ Mos. _____					
<input type="checkbox"/> Traffic Safety Program <input type="checkbox"/> Substance Abuse Evaluation and Completion of Recommended Court Referral Program <input type="checkbox"/> License to remain Suspended/Revoked Pending Certification of Completion of Court Referral Program					
<input type="checkbox"/> LICENSE SUSPENDED/REVOKED _____ Days _____ Mos. _____		<input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent			
Disposition Date Mo   Day   Year		Signature of Judge/Magistrate _____			
<input type="checkbox"/> Case Appealed		Appeal Date Mo   Day   Year		Amount of Appeal Bond \$ _____	
				Circuit Court Case Number _____	

### SUMMARY OF COURT COSTS AND FINE

TYPE OF ARREST:	<input type="checkbox"/> State	<input type="checkbox"/> County	<input type="checkbox"/> Municipal	District Court	Municipal Court
1 Court Costs/Docket Fee					
2 Witness Subpoena-District Court					
3 Other					
4 Fine					
TOTAL _____					

RECORD OF CASH RECEIPTS			
RECEIVED FROM	Date Received	Receipt Number	Amount

License Attached

☐ YES

☐ NO

OPS Received License

☐ YES

☐ NO

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1958

FORM UTC-1 REV 1/89		<b>ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT</b>		COURT CASE NO. YEAR      NUMBER	
ALABAMA, COUNTY OF			TICKET NUMBER <b>L</b>		<b>ABSTRACT OF COURT RECORD/ DPS DATA INPUT</b>
The undersigned, being duly sworn, deposes and says that he/she has probable cause to believe and does believe that the person herein named did within the previous 12 months commit the offense set forth contrary to law in that on or about _____ Month _____ Day _____ Year _____ At _____ Time _____ AM <input type="checkbox"/> PM <input type="checkbox"/> MT <input type="checkbox"/>					
First Name _____ Middle/Maiden _____ Last _____					
Address _____ Street _____					
City _____		State _____		Zip Code _____	
State _____		Driver's License Number _____			Class _____
Sex _____ Race _____		Birth Day _____ Mo _____ Day _____ Year _____		Social Security Number _____	
Height _____		Weight _____		Eyes _____ Hair _____	
Vehicle Description (Year, Make, Type, Color) _____			Owner of vehicle <input type="checkbox"/> Driver <input type="checkbox"/> Employer <input type="checkbox"/> Other _____		
Employer/Owner of Vehicle (Address) _____					
Did unlawfully operate a motor vehicle <input type="checkbox"/> within the city limits or police jurisdiction of _____, or <input type="checkbox"/> in _____ County upon the following public street, road or highway, or other place at or near _____ (Describe location) _____ in violation of <input type="checkbox"/> State Code _____ (OR) _____ Mile Post Number _____ Street or Road Code _____ <input type="checkbox"/> Municipal Ordinance No. _____ duly adopted and in force at the time the offense was committed, <input type="checkbox"/> (If Applicable) adopting Section _____, Code of Alabama 1975 More particularly described in DESCRIPTION OF OFFENSE section below (See circle of description of offense)					
Return to send undersigned before the date _____ Signature _____		Complainant's Signature _____ Officer's ID _____ Agency O.R.I. _____			
<b>COURT APPEARANCE INFORMATION</b>					
<input type="checkbox"/> Municipal <input type="checkbox"/> District Court of _____ Phone ( ) _____					
Court Appearance Date Mo _____ Day _____ Year _____		Time <input type="checkbox"/> AM <input type="checkbox"/> PM		Court Address _____	
<input type="checkbox"/> Released on own Recognizance <input type="checkbox"/> Driver's License Posted in Lieu of Bond					
I PROMISE TO APPEAR IN COURT AT SAID TIME AND PLACE OR OTHERWISE COMPLY WITH THE PROVISIONS OF THIS COMPLAINT AND INSTRUCTIONS ON THE REVERSE OF THIS TICKET					
Defendant's Signature _____			Phone ( ) _____		
<b>DESCRIPTION OF OFFENSE</b>					
CIRCLE APPROPRIATE SQUARE					
<input type="checkbox"/> 1 Speeding _____ MPH _____ Zone <input type="checkbox"/> 2 Reckless Driving <input type="checkbox"/> 3 Driving Without First Obtaining A Driver's License		<input type="checkbox"/> 6 Failing to Yield Right of Way DRIVING WHILE LICENSE OR PRIVILEGE IS: <input type="checkbox"/> 7 Revoked <input type="checkbox"/> 8 Suspended <input type="checkbox"/> 9 Cancelled			
DID DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE: <input type="checkbox"/> 4 There Was 40% or More By Weight of Alcohol in His/her Blood <input type="checkbox"/> 4 Under the Influence of Alcohol <input type="checkbox"/> 5 Under the Influence of Controlled Substances <input type="checkbox"/> 7 Under the Combined Influence of Alcohol and a Controlled Substance <input type="checkbox"/> 7 Under the Influence of any substance which impairs the Mental or Physical Faculties		RUNNING: <input type="checkbox"/> 11 Driving on Wrong Side of Road <input type="checkbox"/> 11 IMPROPER: (A) Muffler (B) Lights (C) Tires (D) Mirror (E) Brakes IMPROPER: <input type="checkbox"/> 14 Passing <input type="checkbox"/> 28 Tag <input type="checkbox"/> 29 Turn <input type="checkbox"/> 4 Overweight Vehicle <input type="checkbox"/> OTHER VIOLATIONS/SPECIFY _____ (AND OFFICER'S REMARKS) _____			
ACCIDENT INFORMATION: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3					
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><b>INSTRUCTIONS</b> TO OFFICER:</p> </div> <div style="width: 50%; text-align: right;"> <p><b>PRESS FIRMLY.</b> ASK IF MOTORIST'S ADDRESS IS CORRECT ON DRIVER'S LICENSE</p> </div> </div>					

1959

ABSTRACT OF COURT RECORD COURT ACTION AND DISPOSITION				COURT CASE NO YEAR      NUMBER	
IN THE <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> DISTRICT COURT OF _____			TICKET NUMBER <u>L</u>		
DEFENDANT'S NAME _____			CHARGE _____		
BAIL SET AT \$ _____	CASH BAIL DEPOSITED \$ _____	<input type="checkbox"/> DRIVER'S LICENSE DEPOSITED IN LIEU OF BOND		<input type="checkbox"/> RELEASED ON OWN RECOGNIZANCE	
CONTINUED TO _____			REASON _____		
DATE WARRANT ISSUED _____			DATE SERVED _____		<input type="checkbox"/> RESPONDED TO FTA NOTICE
COURT DATE _____			COURT OR I <u>AL</u>		
ATTORNEY FOR DEFENDANT _____			CHECK APPROPRIATE BLOCK IF APPLICABLE <input type="checkbox"/> Defendant informed of right to counsel, voluntarily waived counsel <input type="checkbox"/> Defendant found indigent, counsel appointed		
PLEA OF DEFENDANT <input type="checkbox"/> Guilty as charged <input type="checkbox"/> Guilty of _____ <input type="checkbox"/> Not Guilty					
ADJUDICATION: (circle one) <input type="checkbox"/> Guilty as charged <input type="checkbox"/> Not Guilty					
<input type="checkbox"/> Guilty of _____ <input type="checkbox"/> Not-prossed <input type="checkbox"/> Dismissed					

### ORDERS OF THE COURT

<input type="checkbox"/> FINE \$ _____ + COURT COSTS \$ _____ = TOTAL \$ _____					
<input type="checkbox"/> JAILED Days _____ Mos. _____ LOCATION _____					
<input type="checkbox"/> SENTENCE SUSPENDED Days _____ Mos. _____ <input type="checkbox"/> PROBATION Days _____ Mos. _____					
<input type="checkbox"/> COMMUNITY SERVICE Days _____ Mos. _____					
<input type="checkbox"/> Traffic Safety Program <input type="checkbox"/> Substance Abuse Evaluation and Completion of Recommended Court Referral Program <input type="checkbox"/> License to remain Suspended/Revoked Pending Certification of Completion of Court Referral Program					
<input type="checkbox"/> LICENSE SUSPENDED/REVOKED Days _____ Mos. _____ <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent					
Disposition Date Mo   Day   Year		I hereby certify that this is a true and correct abstract of the record of this Court Signature of Judge/Magistrate			
<input type="checkbox"/> Case Appealed		Appeal Date Mo   Day   Year		Amount of Appeal Bond \$ _____	Circuit Court Case Number _____

### SUMMARY OF COURT COSTS AND FINE

TYPE OF ARREST	<input type="checkbox"/> State	<input type="checkbox"/> County	<input type="checkbox"/> Municipal	District Court	Municipal Court
1 Court Costs/Docket Fee					
2 Written Subpoena-District Court					
3 Other					
4 Fine					
TOTAL					

RECORD OF CASH RECEIPTS			
RECEIVED FROM	Date Received	Receipt Number	Amount

License Attached ☐ YES ☐ NO      DPS Received License ☐ YES ☐ NO

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1960

FORM UTC-1 REV 1/69	<b>ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT</b>	COURT CASE NO YEAR _____ NUMBER _____
ALABAMA, COUNTY OF _____		TICKET NUMBER <b>L</b>
The undersigned, being duly sworn, deposes and says that he/she has probable cause to believe and does believe that the person herein named did within the previous 12 months commit the offense set forth contrary to law in that on or about _____ Month _____ Day _____ Year at _____ Time _____ AM _____ PM _____ MT.		
First Name _____ Middle/Maiden _____ Last _____		POLICE RECORD
Address _____ Street _____		
City _____ State _____ Zip Code _____		
State _____	Driver's License Number _____	Class _____
Sex _____ Race _____	Birth Day _____ Year _____	Social Security Number _____
Height _____ Weight _____ Eyes _____ Hair _____	Vehicle Tag Number _____	Vehicle _____ State _____ Year _____
Vehicle Description (Year, Make, Type, Color) _____		Owner of Vehicle <input type="checkbox"/> Driver <input type="checkbox"/> Employer <input type="checkbox"/> Other <input type="checkbox"/>
Employer/Owner of Vehicle (Address) _____		
Did unlawfully operate a motor vehicle <input type="checkbox"/> within the city limits or police jurisdiction of _____, or <input type="checkbox"/> in _____ County upon the following public street, road or highway, or other place at or near _____ (Describe location) _____		
in violation of <input type="checkbox"/> State Code _____ (OR) _____		Mile Post Number _____ Street or Road Code _____
<input type="checkbox"/> Municipal Ordinance No _____ duly adopted and in force at the time the offense was committed, <input type="checkbox"/> (If Applicable) adopting Section _____ Code of Alabama 1975.		
More particularly described in DESCRIPTION OF OFFENSE section below (See circle of description of offense)		
Present to and interviewed by _____ Subscribed and sworn to before me this _____ day of _____ 1960.		Complainant's Signature _____ Officer I.D. _____ Agency O.R.I. _____
<b>COURT APPEARANCE INFORMATION</b>		
<input type="checkbox"/> Arraigned <input type="checkbox"/> Observed Court of _____		
Court Appearance Date _____ Time _____ Place _____		
<input type="checkbox"/> Released on own Recognizance <input type="checkbox"/> Driver's License Posted in Lieu of Bond		
I PROMISE TO APPEAR IN COURT AT SAID TIME AND PLACE OR OTHERWISE COMPLY WITH THE PROVISIONS OF THIS COMPLAINT AND INSTRUCTIONS ON THE REVERSE OF THIS TICKET		
Defendant's Signature _____		Phone ( ) _____
<b>DESCRIPTION OF OFFENSE</b> CIRCLE APPROPRIATE SQUARE		
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">1 Speeding _____ MPH _____ Zone</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">2 Reckless Driving</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">3 Driving Without First Obtaining A Driver's License</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">4 DID DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE:</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">4 There Was 10% or More By Weight of Alcohol in His/her Blood</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">4 Under the Influence of Alcohol</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">3 Under the influence of Controlled Substances</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">21 Under the Combined influence of Alcohol and a Controlled Substance</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">22 Under the influence of any substance which impairs the Mental or Physical Faculties</div> </div> <div style="width: 50%;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">5 Failing to Yield Right of Way</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">DRIVING WHILE LICENSE OR PRIVILEGE IS:</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">7 Revoked</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">8 Suspended</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">9 Cancelled</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">RUNNING:</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">10 Red Light</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">11 Driving on Wrong Side of Road</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">13 IMPROPER: (A) Muffler (B) Lights (C) Tires (D) Mirror (E) Brakes</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">IMPROPER: 14 Passing 28 Tag 29 Turn</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">42 Overweight Vehicle</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">OTHER VIOLATIONS/SPECIFY (AND OFFICER'S REMARKS) _____</div> </div> </div>		
ACCIDENT INFORMATION: 1 2 3		
<b>INSTRUCTIONS TO OFFICER:</b> <b>PRESS FIRMLY.</b> ASK IF MOTORIST'S ADDRESS IS CORRECT ON DRIVER'S LICENSE.		



1961

**POLICE NOTES**

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[Back of page three]

1962

FORM UTC-1 REV 1/69		<b>ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT</b>		COURT CASE NO.	
				YEAR      NUMBER	
ALABAMA, COUNTY OF		<div style="border: 1px solid black; padding: 2px; display: inline-block;">             COUNTY           </div>		TICKET NUMBER <b>L</b>	
The undersigned, being duly sworn, deposes and says that he/she has probable cause to believe and does believe that the person herein named did within the previous 12 months commit the offense set forth contrary to law in that on or about _____ Month _____ Day _____ Year At _____ Time _____				DEFENDANT'S COPY <input type="checkbox"/> AM <input type="checkbox"/> PM <input type="checkbox"/> MT	
First Name _____		Middle/Maiden _____		Last _____	
Address _____ Street _____					
City _____		State _____		Zip Code _____	
State _____		Driver's License Number _____		Class _____	
Sex _____	Race _____	Birth Day _____ Mo _____ Day _____ Year _____	Social Security Number _____		Vehicle <input type="checkbox"/> Commercial <input type="checkbox"/> Private
Height _____	Weight _____	Eyes _____	Hair _____	Vehicle Tag Number _____	State _____ Year _____
Vehicle Description (Year, Make, Type, Color) _____				Owner of Vehicle <input type="checkbox"/> Driver <input type="checkbox"/> Employer <input type="checkbox"/> Other _____	
Employer/Owner of Vehicle (Address) _____					
Did unlawfully operate a motor vehicle <input type="checkbox"/> within the city limits or police jurisdiction of _____, or <input type="checkbox"/> in _____ County upon the following public street, road or highway, or other place at or near _____ (Describe location) _____					
in violation of <input type="checkbox"/> State Code _____ (OR) _____		Mile Post Number _____		Street or Road Code _____	
<input type="checkbox"/> Municipal Ordinance No. _____ duly adopted and in force at the time the offense was committed. <input type="checkbox"/> (If Applicable) adopting Section _____, Code of Alabama 1975					
More particularly described in DESCRIPTION OF OFFENSE section below (See circle of description of offense)					
Signature of Officer (Print Name and Title)		Signature of Complainant		Complainant's Address	
Officer I.D. _____		Agency O.R.I. _____		_____	

COURT APPEARANCE INFORMATION					
<input type="checkbox"/> Municipal <input type="checkbox"/> District Court of _____ Phone ( ) _____					
Court Appearance Date _____ Time _____ <input type="checkbox"/> Late <input type="checkbox"/> Early					
<input type="checkbox"/> Released on own Recognizance <input type="checkbox"/> Driver's License Posted in Lieu of Bond					
I PROMISE TO APPEAR IN COURT AT SAID TIME AND PLACE OR OTHERWISE COMPLY WITH THE PROVISIONS OF THIS COMPLAINT AND INSTRUCTIONS ON THE REVERSE OF THIS TICKET					
Defendant's Signature _____				Phone ( ) _____	
DESCRIPTION OF OFFENSE CIRCLE APPROPRIATE SQUARE					
<input type="checkbox"/> 1 Speeding _____ MPH _____ Zone <input type="checkbox"/> 2 Reckless Driving <input type="checkbox"/> 3 Driving Without First Obtaining A Driver's License DID DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE: <input type="checkbox"/> 4 There Was 10% or More By Weight of Alcohol in His/her Blood <input type="checkbox"/> 5 Under the Influence of Alcohol <input type="checkbox"/> 6 Under the Influence of Controlled Substances <input type="checkbox"/> 7 Under the Combined Influence of Alcohol and a Controlled Substance <input type="checkbox"/> 8 Under the Influence of any substance which impairs the Mental or Physical Faculties ACCIDENT INFORMATION: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3			<input type="checkbox"/> 9 Failing to Yield Right of Way DRIVING WHILE LICENSE OR PRIVILEGE IS: <input type="checkbox"/> 7 Revoked <input type="checkbox"/> 8 Suspended <input type="checkbox"/> 9 Cancelled RUNNING: <input type="checkbox"/> 11 Driving on Wrong Side of Road <input type="checkbox"/> 13 IMPROPER: (A) Muffler (B) Lights (C) Tires (D) Mirror (E) Brakes IMPROPER: <input type="checkbox"/> 14 Passing <input type="checkbox"/> 15 Tag <input type="checkbox"/> 16 Turn <input type="checkbox"/> 17 Overweight Vehicle <input type="checkbox"/> OTHER VIOLATIONS/SPECIFY (AND OFFICER'S REMARKS) _____		

<b>INSTRUCTIONS TO OFFICER:</b>	<b>PRESS FIRMLY.</b> ASK IF MOTORIST'S ADDRESS IS CORRECT ON DRIVER'S LICENSE.
---------------------------------	---

# NOTICE

## INSTRUCTIONS TO THE DEFENDANT

- 1 YOU MUST APPEAR IN COURT ON THE COURT APPEARANCE DATE SHOWN ON THE FRONT OF THIS TICKET EXCEPT AS PROVIDED IN NO. 3 BELOW
- 2 IF YOU HAVE NOT SETTLED THIS CASE PRIOR TO THE APPEARANCE DATE AND YOU DO NOT APPEAR IN COURT ON SUCH DATE A WARRANT WILL BE ISSUED FOR YOUR ARREST AND THE DEPARTMENT OF PUBLIC SAFETY WILL BE NOTIFIED TO SUSPEND YOUR DRIVER'S LICENSE
- 3 YOU DO NOT HAVE TO APPEAR IN COURT FOR THE FOLLOWING OFFENSES UNLESS YOU HAVE BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING 12 MONTHS (PARKING TICKETS EXCLUDED)

Driving on wrong side of road  
Improper lag  
Failing to

Dim lights  
Stop at railroad crossing  
Yield right of way

Improper

Brakes

Lights

Muffler

Passing

Signal

Turn

Following too closely

No helmet (motorcycle rider)

Running red light

Running stop sign

\* Speeding (unaggravated)

Stopping on highway

\* Unaggravated speeding - less than 25 mph over limit

OTHER MINOR TRAFFIC OFFENSES MAY BE ADDED TO THE LIST WHICH WILL ALLOW YOU TO PLEAD GUILTY BEFORE A MAGISTRATE. YOU MAY CONTACT THE COURT SHOWN ON THE REVERSE SIDE OF THE TICKET TO DETERMINE IF THE OFFENSE WITH WHICH YOU ARE CHARGED IS INCLUDED. IF YOU ARE CHARGED WITH ONE OF THE ABOVE OFFENSES AND HAVE NOT BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING 12 MONTHS YOU MAY ENTER A PLEA OF GUILTY EITHER IN PERSON OR BY MAIL TO THE COURT CLERK OR MAGISTRATE, NOT LATER THAN 24 HOURS BEFORE THE COURT DATE SHOWN ON THE TICKET. TO DO SO, YOU MUST SIGN THE "PLEA OF GUILTY/WAIVER OF RIGHTS" SET FORTH BELOW AND PRESENT THIS COPY OF THE TICKET WITH YOUR COURT COSTS AND FINE, EITHER IN PERSON OR BY MAIL, TO THE COURT CLERK OR MAGISTRATE.

- 4 YOU MUST CONTACT THE COURT FOR THE AMOUNT OF THE FINE AND COURT COSTS. PAYMENT MUST BE BY CERTIFIED CHECK OR MONEY ORDER IF MADE BY MAIL.

## PLEA OF GUILTY/ WAIVER OF RIGHTS YOU ARE HEREBY ADVISED OF YOUR RIGHTS AS A DEFENDANT IN THIS TRAFFIC CASE *Please Read Carefully*

I, THE UNDERSIGNED, DO HEREBY ENTER MY APPEARANCE ON THE OFFENSE CHARGED WITHIN THIS COMPLAINT. I UNDERSTAND THAT I HAVE CERTAIN CONSTITUTIONAL RIGHTS WHICH I WILL WAIVE IF I PLEAD GUILTY, NAMELY: THE RIGHT TO A TRIAL BEFORE THIS COURT AND TO APPEAL DE NOVO TO THE CIRCUIT COURT FOR TRIAL BEFORE A JUDGE OR JURY; THE RIGHT TO AN ATTORNEY OF MY CHOICE, OR ONE APPOINTED BY THE COURT AT NO CHARGE IF I CANNOT AFFORD ONE; THE RIGHT AT TRIAL TO SUBPOENA WITNESSES ON MY BEHALF, TO CONFRONT AND CROSS-EXAMINE WITNESSES AGAINST ME AND TO ARGUE AND MAKE OBJECTIONS, AND THE RIGHT TO TESTIFY IN MY OWN BEHALF. I ALSO UNDERSTAND THAT I CANNOT BE FORCED TO TESTIFY AGAINST MYSELF AND THAT I AM PRESUMED INNOCENT AND THAT THIS PRESUMPTION CAN BE OVERCOME ONLY IF THE PROSECUTION CONVINCES THE JUDGE OR JURY OF MY GUILT BEYOND A REASONABLE DOUBT.

I UNDERSTAND MY CONSTITUTIONAL RIGHTS SET OUT ABOVE AND THE PUNISHMENT THAT WILL BE IMPOSED IF I ELECT TO PLEAD GUILTY BEFORE A MAGISTRATE. I ALSO UNDERSTAND THAT MY PLEA OF GUILTY WILL HAVE THE SAME FORCE AND EFFECT AS A JUDGMENT OF CONVICTION BY THE COURT AND THAT A RECORD OF SUCH CONVICTION WILL BE SENT TO THE DRIVER LICENSE DIVISION OF THE ALABAMA DEPARTMENT OF PUBLIC SAFETY (ON OF THE STATE WHERE I RECEIVED MY LICENSE TO DRIVE), WHICH MAY RESULT IN THE SUSPENSION OR REVOCATION OF MY DRIVER'S LICENSE AND MAY ADVERSELY AFFECT MY ABILITY TO MAINTAIN OR SECURE AUTOMOBILE INSURANCE. I FURTHER UNDERSTAND THAT SUCH CONVICTION MAY RESULT IN ENHANCED PENALTIES FOR SUBSEQUENT CONVICTIONS. I UNDERSTAND MY RIGHTS AND THE MATTERS SET OUT ABOVE AND HEREBY VOLUNTARILY AND KNOWINGLY WAIVE SUCH RIGHTS BY PLEADING GUILTY. AS EVIDENCED BY MY SIGNATURE BELOW. I FURTHER STATE UNDER PENALTY OF LAW [SECTION 13A-10-109, CODE OF ALABAMA 1975], THAT I HAVE NOT BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING TWELVE MONTHS.

Defendant's Signature

Date

Defendant's Name (Print or Type)

- 5 FOR MINOR EQUIPMENT VIOLATIONS: LOCAL MUNICIPAL ORDINANCES MAY ALLOW YOU TO HAVE THE EQUIPMENT REPAIRED WITHIN 72 HOURS, EXCLUDING SUNDAYS AND LEGAL HOLIDAYS, AND PRESENT YOUR TICKET TO ANY LAW ENFORCEMENT OFFICER. THIS OFFICER, AFTER INSPECTION OF YOUR VEHICLE, MAY, BY SIGNING BELOW, RECOMMEND THAT THE CHARGE BE DISMISSED. YOU MUST THEN DELIVER OR FORWARD THE TICKET TO THE COURT CLERK AT THE ADDRESS ON THE FRONT OF THIS TICKET.

## DEFECTIVE EQUIPMENT REPAIRED (OFFICER'S RECOMMENDATION TO DISMISS CHARGE)

Equipment Inspected				Inspecting Officer's Name: Printed and Signed													
Court Appearance Date				Time		<input type="checkbox"/> AM <input type="checkbox"/> PM		Officer's ID				Agency OR I					
Mo	Day	Year		:													

[Back of page four]

BOOK

L

**ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT****INSTRUCTIONS TO OFFICERS**

PRINT EVERYTHING BUT SIGNATURES.  
USE A MEDIUM BALL POINT PEN AND PRESS FIRMLY.  
PRINTING ON TICKET MUST BE LEGIBLE ON ALL COPIES.  
(CHECK VIOLATOR'S COPY BEFORE ISSUING).

1. This Uniform Traffic Ticket and Complaint (UTC) MAY NOT be used to charge municipal parking offenses, Rule 19(B) ARJA.
2. Use a separate UTC for each violation.
3. Complete and sign the UTC, have the motorist sign the promise to appear in court, and give him/her the defendant's copy.
4. Advise the motorist to follow the instructions on the back of the UTC. Inform him/her of the consequences of failing to appear in court.
5. All copies of a voided ticket must be returned to the local issuing office.
6. This ticket, including the statement of charges, is valid until specifically recalled pursuant to Rule 19(D) ARJA.

**STATE CODES**

AL Alabama	LA Louisiana	OR Oregon
AK Alaska	ME Maine	PA Pennsylvania
AZ Arizona	MD Maryland	RI Rhode Island
AR Arkansas	MA Massachusetts	SC South Carolina
CA California	MI Michigan	SD South Dakota
CO Colorado	MN Minnesota	TN Tennessee
CT Connecticut	MS Mississippi	TX Texas
DE Delaware	MO Missouri	UT Utah
DC District of Columbia	MT Montana	VT Vermont
FL Florida	NE Nebraska	VA Virginia
GA Georgia	NV Nevada	WA Washington
HI Hawaii	NH New Hampshire	WV West Virginia
ID Idaho	NJ New Jersey	WI Wisconsin
IL Illinois	MN New Mexico	WY Wyoming
IN Indiana	NY New York	AS American Samoa
IA Iowa	NC North Carolina	CZ Panama Canal Zone
KS Kansas	ND North Dakota	GU Guam
KY Kentucky	OH Ohio	PR Puerto Rico
	OK Oklahoma	VI Virgin Islands

**ACCIDENT CODES**

1. No Accident
2. Accident Causing Property Damage
3. Accident Causing Injury

**ALABAMA UNIFORM TRAFFIC TICKET & COMPLAINT**

BOOK

L

Beginning Ticket

L

Ending Ticket

L

Date Issued \_\_\_\_\_

Issuing Officer \_\_\_\_\_

Received By: \_\_\_\_\_

Name

ID No.

**AGENCY COPY**

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

JANUARY 31, 1989

**ORDER**

WHEREAS, the Administrative Office of Courts has recommended to this Court that Rule 31(D), Alabama Rules of Judicial Administration, be amended, and

WHEREAS, the Court has considered that recommendation and deems it appropriate to make the recommended amendment,

It is ORDERED, effective this date, that Rule 31(D), Alabama Rules of Judicial Administration, be amended to read as follows:

(D) **Method of Disposal.** Records shall be disposed of in accordance with the records retention schedule by burning or shredding or by depositing them in a public landfill or in any other manner that is reasonably calculated to prevent their retrieval.

DONE and ORDERED this 31st day of January 1989.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 7th day of February, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

FEBRUARY 8, 1989

**ORDER**

WHEREAS, the Administrative Office of Courts has recommended to this Court that Rule 19(A)(5)(b), Alabama Rules of Judicial Administration, be amended, and

WHEREAS, the Court has considered that recommendation and deems it appropriate to make the recommended amendment,

1966

It is ORDERED, effective this date, that Rule 19(A)(5)(b), Alabama Rules of Judicial Administration, be amended to read as follows:

(b) Courts. The presiding judge, other judge, or clerk of each court shall designate personnel to be responsible for accounting for all uniform traffic tickets and complaints used in said court. Said personnel shall be responsible for the proper disposition and accounting of said tickets and shall cause to be prepared and submitted such records and reports relating to the uniform traffic ticket and complaint as may be requested by the ADC.

DONE and ORDERED this 8th day of February 1989.

Hornsby, C. J., Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 16th day of February, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA  
FEBRUARY 8, 1989

**ORDER**

WHEREAS, the Administrative Office of Courts has recommended to this Court that certain revisions be made to forms accompanying the Alabama Rules of Judicial Administration, and

WHEREAS, the Court has considered those recommendations and considers it appropriate to adopt the recommended revisions,

NOW, THEREFORE, IT IS ORDERED:

1. That the unnumbered form styled "Application and Request for Computer-Based Data of the Unified Judicial System from the Administrative Office of Courts" which appears as part of the appendix to Rule 33, Alabama Rules of Judicial Administration, be omitted; and that there be adopted in its place "Form C-75," as revised December 1988, carrying the same style (a two-page form, a copy of which is attached to and made a part of this order);

2. That that unnumbered form styled "Child Support Obligation Income Statement/Affidavit" appearing as part of the appendix to Rule 32, Alabama Rules of Judicial Administration, be omitted; and that there be adopted in its place "Form CS-41," as revised February 1988, carrying the same style (a two-page form, a copy of which is attached to and made a part of this order);

3. That that unnumbered form styled "Child Support Guideline Form" appearing as part of the appendix to Rule 32, Alabama Rules of Judicial Administration, be omitted; and that there be adopted in its place "Form CS-42," as revised February 1988, carrying the same style (a one-page form, a copy of which is attached to and made a part of this order).

4. That Form UTC-7 as revised October 1987, which appears following the comment to Rule 19, Alabama Rules of Judicial Administration, be omitted; and that there be adopted in its place Form UTC-7 as revised January 1989 [that form being styled "Plea of Guilty/Waiver of Rights (Plea Entered Before Magistrate—Scheduled Traffic Offenses)" and consisting of one page, a copy of which is attached to and made a part of this order].

IT IS FURTHER ORDERED that these revisions shall be effective this date.

DONE and ORDERED this 8th day of February, 1989.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 16th day of February, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

1968

State of Alabama Unified Judicial System  CS-41      Rev. 2/88	<b>CHILD SUPPORT OBLIGATION          INCOME STATEMENT/AFFIDAVIT</b>	Case Number _____
---	---	-------------------

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY

Petitioner \_\_\_\_\_ v. Respondent \_\_\_\_\_

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**AFFIDAVIT**

I, \_\_\_\_\_, being duly sworn upon my oath state as follows:

1. I am the ☐ petitioner ☐ respondent in the above entitled matter.  
 My social security number is: \_\_\_\_\_
2. I am ☐ currently employed. My employer's name and address is: \_\_\_\_\_  
 \_\_\_\_\_  
☐ Not currently employed  
 My last employer's name and address is: \_\_\_\_\_  
 \_\_\_\_\_  
 Last position title: \_\_\_\_\_  
 Average monthly salary last year of employment: \_\_\_\_\_
3. My gross monthly income includes:  
*(For examples of income that must be included, see back of form. If income varies by month, enter the estimated average monthly income.)*

Employment income	\$	
Self-employment income	\$	
Other employment-related income	\$	
Other non-employment related income	\$	
<b>Total</b>	<b>\$</b>	
4. I understand that I will be required to maintain all income documentation used in preparing this affidavit (including my most recent income tax return) and such documentation shall be made available as directed by the court.
5. I understand that any intentional falsification of the information presented in this income affidavit shall be deemed contempt of court.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title



# EXAMPLES OF INCOME THAT MUST BE INCLUDED IN YOUR GROSS MONTHLY INCOME

1. **Employment Income** - shall include, but not be limited to, salary, wages, bonuses, commissions, severance pay, workman's compensation, pension income, unemployment insurance, disability insurance, and social security
2. **Self-Employment Income** - shall include, but not be limited to, income from self-employment, rent, royalties, proprietorship of a business, and joint ownership of a partnership or closely held corporation. "Gross income" means gross receipts minus ordinary and necessary expenses required to produce such income.
3. **Other Employment- Related Income** - shall include, but not be limited to, the average monthly value of any expense reimbursements or in-kind payments received in the course of employment that are significant and reduce personal living expenses such as a furnished automobile, clothing allowance, and housing allowance.
4. **Other Non-Employment Related Income** - shall include, but not be limited to, dividends, interest, annuities, capital gains, gifts, prizes, and pre-existing periodic alimony.

---

## RULE 32, ALABAMA RULES OF JUDICIAL ADMINISTRATION, PROVIDES THE FOLLOWING DEFINITIONS:

**Income.** For purposes of the guideline specified in this Rule, "income" means actual gross income of a parent, if employed to full capacity, or ability to earn income, if unemployed or underemployed

### Gross Income.

"Gross income" includes income from any source, and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pension income, interest, trust income, annuities, capital gains, social security benefits, workmen's compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and preexisting periodic alimony.

"Gross income" does not include benefits received from meanstested public assistance programs, including but not limited to aid to families with dependent children, supplemental security income, food stamps, and general assistance.

### Self Employment Income.

For income from self-employment, rent, royalties, proprietorship of business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income as allowed by the internal revenue service with the exception noted in section (B)(3)(iii)

"Ordinary and necessary expenses" does not include amounts allowable by the internal revenue service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support

**Other Income.** Expense reimbursements or in-kind payments received by a parent in the course of employment or self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses

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State of Alabama  
Unified Judicial System

Form C-75 12/88

**APPLICATION AND REQUEST FOR  
COMPUTER-BASED DATA  
OF THE UNIFIED JUDICIAL SYSTEM FROM  
THE ADMINISTRATIVE OFFICE OF COURTS**

**NOTICE TO REQUESTER:**

This application, when submitted according to the procedures adopted by the Administrative Director of Courts, will be processed and evaluated in accordance with Rule 33, Alabama Rules of Judicial Administration. Once submitted, this application and the completed contract absolving UJS personnel from liability and any costs incurred in producing or distributing this information shall become a public record subject to disclosure.

If you have made a request within the preceding six months for computer-based data which is substantially identical to this request for information, your request will be denied. If your request is approved, costs will accrue in accordance with the contract; therefore, before submitting this application, carefully consider whether the information requested will meet your needs and if it is required for your objective.

**PART I.**

DATE OF REQUEST: \_\_\_\_\_

NAME OF REQUESTER \_\_\_\_\_

ADDRESS OF REQUESTER \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

NAME OF PERSON OR ENTITY ON WHOSE BEHALF THIS REQUEST IS MADE \_\_\_\_\_

DESCRIBE INFORMATION REQUESTED (Be Specific):

REASON THE INFORMATION IS WANTED:

SPECIFY HOW THE INFORMATION WILL BE USED:

LIST PERSON(S) OR ORGANIZATION(S) TO WHOM THE INFORMATION WILL BE DISCLOSED OR DISTRIBUTED:

SIGNATURE OF REQUESTER \_\_\_\_\_

**APPLICATION AND REQUEST FOR  
COMPUTER-BASED DATA  
OF THE UNIFIED JUDICIAL SYSTEM FROM  
THE ADMINISTRATIVE OFFICE OF COURTS**

**PART II.**

**(AOC USE ONLY)**

**TO BE COMPLETED BY THE ADMINISTRATIVE DIRECTOR OF COURTS**

DATE REQUEST RECEIVED: \_\_\_\_\_

You are hereby notified that your application has been processed and evaluated in accordance with Rule 33, Alabama Rules of Judicial Administration, and it is

\_\_\_\_\_ GRANTED

\_\_\_\_\_ DENIED

If denied, the reason(s) for denial is/are as follows:

The estimated cost for fulfilling your request is:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrative Director of Courts

1972

State of Alabama Unified Judicial System  CS-42                      Rev. 2/88	<b>CHILD SUPPORT GUIDELINE FORM</b>	Case Number _____	
IN THE _____ COURT OF _____ COUNTY CASE NO. _____			
_____ v. _____ <div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> <span>Petitioner</span> <span>Respondent</span> </div>			
Children	Date of Birth		
	Petitioner	Respondent	Combined
1. MONTHLY GROSS INCOME	\$	\$	
a. Minus Preexisting Child Support Payment	-	-	
b. Minus Health Insurance Premium (if Child included)	-	-	
c. Minus Preexisting Alimony Paid	-	-	
2. MONTHLY ADJUSTED GROSS INCOME	\$	\$	\$
3. PERCENTAGE SHARE OF INCOME (Line 2 Each parent's income divided by Combined Income)	%	%	
4. BASIC CHILD SUPPORT OBLIGATION (Apply Line 2 Combined to Child Support Schedule)			
a. Plus Work-Related Child Care Costs (Actual costs minus Federal Tax Credit)			
b. Plus Extraordinary Medical and Dental Expenses (Uninsured only)			
c. Plus Extraordinary Education Expense (Agreed to and approved by Court only)			
5. TOTAL CHILD SUPPORT OBLIGATION (Add lines 4, 4a, 4b, and 4c)			
6. EACH PARENT'S CHILD SUPPORT OBLIGATION (Multiply Line 3 times Line 5 for each parent)	\$	\$	
7. RECOMMENDED CHILD SUPPORT ORDER (Bring down amount from line 6 for the non-custodial parent only. Leave custodial parent column blank.)	\$	\$	
Comments, Calculations, or Rebuttals to Schedule:			
PREPARED BY: _____			DATE _____

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State of Alabama Unified Judicial System Form UTC-7 Rev. 1/89	<b>PLEA OF GUILTY-WAIVER OF RIGHTS</b> (Plea Entered Before Magistrate Scheduled Traffic Offenses)	Case Number <hr/> UTC Number
---	--	---------------------------------

☐ In the District Court of \_\_\_\_\_ County, AL  
☐ In the Municipal Court of \_\_\_\_\_

THE STATE OF ALABAMA  
 or  
 CITY/TOWN OF: \_\_\_\_\_ v. \_\_\_\_\_ Defendant

**NOTICE TO THE ABOVE NAMED DEFENDANT:**

State law prohibits magistrates from receiving pleas of guilty from anyone convicted of two or more traffic offenses in the preceding 12 months. *If you have been convicted of two or more traffic offenses within the preceding 12 months, do not sign this plea of guilty. A false statement will subject you to penalties prescribed by law.*

You are charged with the offense of \_\_\_\_\_. In accordance with the Rules of Judicial Administration, you may elect to plead guilty to this offense before a magistrate and pay a fine of \$\_\_\_\_\_ plus court costs of \$\_\_\_\_\_, for a total of \$\_\_\_\_\_.

**PLEA OF GUILTY - WAIVER OF RIGHTS**

YOU ARE HEREBY ADVISED OF YOUR RIGHTS AS A DEFENDANT IN THIS TRAFFIC CASE.

*Please Read Carefully*

I, the undersigned, do hereby enter my appearance on the complaint for the offense cited above. I understand that I have certain constitutional rights which I will waive if I plead guilty, namely: the right to a trial before this court and to appeal ~~de novo~~ to the circuit court for trial before a judge or jury; the right to an attorney of my choice, or one appointed by the court at no charge if I cannot afford one; the right at trial to subpoena witnesses on my behalf, to confront and cross-examine witnesses against me and to argue and make objections; and the right to testify in my own behalf. I also understand that I cannot be forced to testify against myself and that I am presumed innocent and that this presumption can be overcome only if the prosecution convinces the judge or jury of my guilt beyond a reasonable doubt.

I understand my constitutional rights set out above and the punishment that will be imposed if I elect to plead guilty before a magistrate. I also understand that my plea of guilty will have the same force and effect as a judgment of conviction by the court and that a record of such conviction will be sent to the Driver License Division of the Alabama Department of Public Safety (or of the state where I received my license to drive), which may result in the suspension or revocation of my driver's license and may adversely affect my ability to maintain or secure automobile insurance. I further understand that such conviction may result in enhanced penalties for subsequent convictions. I understand my rights and the matters set out above and hereby voluntarily and knowingly waive such rights by pleading guilty, as evidenced by my signature below. I further state under penalty of law [Section 13A-10-109, *Code of Alabama 1975*], that I have not been convicted of two or more traffic violations during the preceding twelve months.

\_\_\_\_\_  
 Defendant's Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Defendant's Name (Print or Type)

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THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

February 28, 1989

**ORDER**

IT IS ORDERED that the Alabama State Bar Client Security Fund Rules be amended as follows:

1. Rule VIII shall carry the style "Assessment of Annual Fee."

2. Rule XVII is added, that new rule to read as follows:

"Rule XVII. EFFECT OF LAWYER'S FAILURE  
TO PAY ASSESSED FEE.

"A lawyer who fails to pay by March 31 of a particular year the fee assessed pursuant to Rule VIII shall be deemed to be not in compliance with these rules. Such a lawyer is subject to suspension pursuant to Rule 3(h), Alabama Rules of Disciplinary Enforcement.

"(Added effective February 28, 1989.)"

IT IS FURTHER ORDERED that these two amendments shall be effective this date.

DONE AND ORDERED this 28th day of February 1989.

Hornsby, C. J., and Maddox, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of March, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

February 28, 1989

**ORDER**

WHEREAS, the Alabama State Bar Association has recommended the amendment of Rule 3, Alabama Rules of Disciplinary

Enforcement, by the addition of a new section to deal with non-compliance with the Alabama State Bar Client Security Fund Rules, and

WHEREAS, the Court has considered that proposal and deems it appropriate to make the recommended amendment,

It is ORDERED that effective this date Rule 3, Alabama Rules of Disciplinary Enforcement, be amended by the addition of the following section:

**“(h) Suspension for Noncompliance With the Alabama State Bar Client Security Fund Rules.**

“(1) An attorney who, being subject to the assessment of a fee pursuant to Rule VIII, Alabama State Bar Client Security Fund Rules, fails to pay the assessed fee by March 31 of a particular year, will be deemed to be not in compliance with the Client Security Fund Rules for that year.

“(2) As soon as practical after March 31 of each year, there shall be furnished to the Secretary of the Alabama State Bar a list of those attorneys who have failed to pay the assessment for the current calendar year, as required by Rule VIII, Client Security Fund Rules.

“The Secretary shall thereupon forward this list of attorneys to the chairman of the Disciplinary Commission.

“The chairman of the Disciplinary Commission shall then serve, by certified mail, each attorney whose name appears upon the list with an order to show cause, within sixty (60) days (i.e., within sixty days from the date of the order), why the attorney’s license should not be suspended at the expiration of the sixty (60) days. Any such attorney may within the 60 days furnish the Disciplinary Commission with an affidavit (a) indicating that the attorney has in fact paid the assessment for the current calendar year or (b) setting forth a valid excuse (illness or other good cause) for failure to comply with the requirement.

“At the expiration of sixty (60) days from the date of the order to show cause, the Disciplinary Commission shall enter an order suspending the law license of each attorney whose name appears on the list and who has not, pursuant to the third paragraph of this Rule 3(h)(2), filed an affidavit that the Disciplinary Commission considers satisfactory.

“At any time within thirty (30) days after the order of suspension, an attorney may file with the Disciplinary Commission an affidavit indicating that the attorney has paid

the assessment for the current year; and, if the Disciplinary Commission finds the affidavit satisfactory, it shall as soon as practicable enter an order reinstating the attorney.

“At any time beyond thirty (30) days from the order of suspension, an attorney seeking reinstatement may file with the Disciplinary Board an affidavit like that described in the preceding paragraph, but an attorney filing such an affidavit must file with that affidavit a petition for reinstatement (see Rule 19, Alabama Rules of Disciplinary Enforcement).

“An attorney may appeal to the Disciplinary Board from an order of suspension or an order denying reinstatement entered by the Disciplinary Commission. Additionally, any affected attorney may appeal any action of the Disciplinary Board to the Supreme Court in accordance with the procedure set out in Rule 8(d) of these rules.

“(Added effective February 28, 1989.)”

DONE and ORDERED this 28th day of February, 1989.

Hornsby, C. J., and Maddox, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of March, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

FEBRUARY 28, 1989

### ORDER

WHEREAS, the Alabama State Bar has recommended to this Court certain amendments to Rule 8, Alabama Rules of Disciplinary Enforcement; and

WHEREAS, the Court has considered those proposed amendments and deems it appropriate to make those amendments,



It is ORDERED that Rule 8, Alabama Rules of Disciplinary Enforcement, be amended as follows:

1. Rule 8(b)(2) is amended to read as follows:

**“(2) Grievance Committee’s Records; Failure to Submit Report Within One Year; General Counsel’s Records.** Each grievance committee shall maintain a file for at least six years as to all charges filed with it or investigated by it and shall make the same available to the General Counsel upon 14 days’ receipt of written request by the General Counsel. The failure of any local grievance committee to take or recommend action against an attorney shall in no event be or constitute a bar to the prosecution of charges by the General Counsel of the Alabama State Bar against the attorney for or arising out of the same facts, as provided in Rule 8(a) hereof.

“In any case where a grievance committee has not submitted its report of an investigation to the Disciplinary Commission within one (1) year from the date that the complaint was received by the Bar or from the date on which the investigation was commenced by the grievance committee, whichever was earlier, the Disciplinary Commission shall notify the grievance committee to submit its report within thirty (30) days, and if the report has not been received within thirty (30) days the Disciplinary Commission may order that the investigation be taken over by the General Counsel.

“The General Counsel shall maintain a file for at least six (6) years as to all charges filed with it and investigated by it and shall make the same available to any grievance committee within fourteen (14) days of the receipt of a written request by the grievance committee, provided, however, that Rule 22 shall be observed by the grievance committee.

“(Amended effective February 28, 1989.)”

2. Rule 8(c) is amended to add the following paragraph:

“In those cases where the respondent is found to have violated the Code of Professional Responsibility, the Disciplinary Board shall allow the State Bar and the respondent to be heard further on the question of appropriate discipline in the matter, and the Disciplinary Board shall consider, in setting discipline, any prior vi-

ulations of the Code of Professional Responsibility by the respondent.

“(Amended effective February 28, 1989.)”

3. The following section is added as Rule 8(f):

“**Expungement of Records.** The General Counsel of the Alabama State Bar and a grievance committee of a Circuit, County, or City Bar Association, which committee has been approved by the Alabama State Bar or its Board of Commissioners, may expunge any records or files relating to or involving any complaint or grievance, which has been dismissed without discipline, by an order of the Disciplinary Commission or by a panel of the Disciplinary Board of the Alabama State Bar, and as to which at least seven (7) years has elapsed since the date of the order dismissing the complaint or grievance.

“(Added effective February 28, 1989.)”

It is further ORDERED that these amendments shall be effective this date.

DONE and ORDERED this 28th day of February 1989.

Hornsby, C. J., and Maddox, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of March, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

February 28, 1989

**ORDER**

WHEREAS, this Court’s Standing Committee on Alabama Rules of Civil Procedure has recommended the adoption of certain amendments to Rule 64; and

WHEREAS, this Court deems it appropriate to adopt those amendments;

IT IS ORDERED that Rule 64, Alabama Rules of Civil Procedure, be amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall become effective March 8, 1989.

DONE AND ORDERED this 28th day of February 1989.

Hornsby, C. J., and Maddox, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of March, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

#### APPENDIX

#### 64. SEIZURE OF PERSON OR PROPERTY.

(a) **Seizure of Person or Property.** At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by law except that there can be no seizure of property through judicial process prior to the entry of judgment other than by a judicial officer acting pursuant to the procedure set forth in paragraph (b) of this rule.

(b) **Procedure for Seizure of Property.** Whenever any provision of law is invoked through which there is an attempt to seize property through judicial process prior to the entry of judgment, the procedure on application for such a pre-judgment seizure shall be as follows:

(1) *Affidavit.* The plaintiff shall file with the court an affidavit on personal knowledge, except where specifically provided otherwise, containing the following information:

(A) **Description of Property.** A description of the claimed property that is sufficient to make possible its identification and its location.

(B) **Statement of Title or Right.** A statement that the plaintiff is the owner of the claimed property or is entitled to possession of it, describing the source of such title or right and, if the plaintiff's

interest in such property is based on a written instrument, a copy of said instrument must be attached to the affidavit.

(C) *Statement of Wrongful Detention.* A statement of specific facts which show that the property is wrongfully detained by the defendant and a statement of the cause of such detention according to the best knowledge, information, and belief of the plaintiff.

(D) *Statement of Risk of Injury.* A statement of specific facts in support of the contention, if any, that there is risk of concealment, transfer, or other disposition of or damage to the property to the injury of the plaintiff.

(2) *Proceedings.*

(A) *Preliminary Examination by the Court.* The Court, without delay, shall examine the complaint, the application and supporting affidavit and its attachments, and any further showing offered by the plaintiff in support of the plaintiff's right to the immediate possession of the property.

(B) *Preliminary Finding for the Plaintiff; Writ of Seizure or Attachment without Hearing; Hearing on Dissolution.* If the court upon preliminary examination finds that the risk of concealment, transfer, or other disposition of or damage to the property by permitting it to remain in the possession of the defendant between the filing of the action and the time of a hearing is real, then the court shall forthwith enter an order authorizing the issuance of a writ of seizure or attachment, but the court shall provide in said order that the defendant is entitled, as a matter of right, to a pre-judgment hearing on the issue of dissolution of the writ if a written request for hearing is served on counsel for the plaintiff within five days from the date of seizure of the property by the sheriff or other duly constituted officer. If such a request is made, the writ shall expire upon the fifteenth day from said date of seizure unless the court, after hearing, continues the order in effect. The expiration of the writ shall not prejudice the right of the plaintiff to a reinstatement thereof, but any such reinstatement shall not be made without notice and hearing. If no request for a hearing is made within the five-day period, the writ shall remain in effect pending further order of the court, but the court, in its discretion, may hear a request for dissolution of the writ although said request is served more than five days from the date of seizure.

(C) *Failure to Make Preliminary Finding for the Plaintiff; Order for Hearing; Hearing on Writ of Seizure or Attachment.* If the court fails to make a preliminary finding for the plaintiff under subdivision (b)(2)(B) of this rule, the court shall order and direct that the plaintiff's application to the court for a writ of seizure or attachment or such other writ be set down for a hearing before the court at the

earliest practical time, and notice of the time, date, and place of said hearing shall be forthwith served on the defendant. Said notice to the defendant shall provide that the defendant shall not dispose of or alter in any form the personalty therein described pending the hearing of the application and shall state that if the defendant does dispose of or alter the personalty sought to be recovered, he shall be subject to punishment for contempt of court. At such hearing the plaintiff shall have the burden of showing good cause for the pre-judgment seizure or attachment, but the failure of the defendant to appear shall be deemed a waiver of any objections to the pre-judgment seizure or attachment.

**(dc) District Court Rule.** Rule 64 applies in the district courts.

(Amended effective October 28, 1975; March 8, 1989.)

Committee Comments to Amendment Effective March 8, 1989.

The revision to Rule 64 that became effective on October 28, 1975, sought to eliminate constitutional objections to Alabama statutory law dealing with process calculated to disrupt possession of property rights without a hearing. The revision superimposed provision for notice and opportunity to be heard over the statutory procedure for recovery of possession of specific personal property under the detainee statute or any other provision of law whereby the owner of a security interest in personal property seeks to recover specific personal property prior to judgment. Consequently, the revision, by its terms, did not deal with attempts to interfere with possession of property through a writ of attachment. In *Jones v. Preuit & Mauldin*, 822 F.2d 998 (11th Cir. 1987) (on rehearing, modifying 808 F.2d 1435 (11th Cir. 1987)), the question of the constitutionality of Alabama's attachment procedure was directly addressed. The court found that Alabama's attachment procedure was not constitutionally defective in that § 6-6-148, providing a remedy to the defendant in an attachment case, constituted adequate safeguard. In a dissenting opinion, Judge Johnson, the author of the initial panel decision, which has proceeded on an assumption of unconstitutionality, questioned the majority's conclusion that the statutory procedure of § 6-6-148 was an adequate substitute for the procedure set forth at Rule 64(b). In any event, both the majority and the minority were in accord with the unconstitutionality of attachment procedure in Alabama if the writ was issued by the clerk as opposed to a judicial officer.

Rather than have separate processes govern essentially the same activity, it is logical and constitutionally appropriate to amend Rule 64 so as to bring the attachment procedure within the sweep of the constitutional protection as available under former Rule 64(b) which,

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as earlier noted, was limited to seizure involving protection of a security interest in personal property.

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

February 28, 1989

**ORDER**

WHEREAS, the court's advisory committee on Rules of Criminal Procedure has recommended to the Court the adoption of a proposed rule relating to minute entries in criminal cases; and

WHEREAS, the Court deems it appropriate to adopt that rule;

IT IS ORDERED that Rule 22, Alabama Rules of Criminal Procedure, styled "Minute Entries," a copy of which is attached to and made a part of this rule, be adopted.

IT IS FURTHER ORDERED that Rule 22 shall be effective this date.

DONE AND ORDERED this 28th day of February 1989.

Hornsby, C. J., and Maddox, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of March, 1989.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

**Rule 22 MINUTE ENTRIES**

**(a) Case Action Summary Sheet.** The clerk of the court shall maintain for each criminal case docketed, including youthful offender adjudications but excepting misdemeanor traffic violations, a case action summary sheet or sheets properly identified by the style of the case and the case number. There shall be entered upon the case action summary sheet notations of all papers filed with the clerk, all processes issued and returns made thereon, all appearances, and all motions, rulings, orders, verdicts, and judgments. All entries shall show the date of the proceeding or action noted. These entries shall include, but shall not be limited to, the appointment, appearance, and waiver of counsel; the presence of counsel at each proceeding; the charge(s); the defendant's arraignment or any waiver thereof

(including the plea of the defendant); the selection, swearing, impanelling, and charging of the jury and any alternate jurors selected; the verdict and findings of the jury; the adjudication, the allocution; and the pronouncement of the sentence (including where appropriate, the period and terms of confinement; the assessment of any fines, costs, restitution, and reimbursement of attorney fees; the period of probation and conditions relating thereto; credit for time incarcerated on the present charge; and notice of appeal.

If the judge files a separate order, the clerk does not have to duplicate that separate order onto the case action summary sheet, but may enter on the case action summary sheet a notation indicating that a separate order has been filed.

**(b) Form and Contents of Entries.** The entries on case action summary sheets shall not require any particular language or form. The judge shall sign or initial all rulings or orders entered thereon.

**(c) Filing of the Entries.**

(1) *Copy of the Case Action Summary Sheet to Case File.* Upon the disposition of a case and after all entries have been completed, the clerk of the court shall file the case action summary sheet or sheets in numerical order with the sheets from other cases in docket books and shall place a copy of the case action summary sheet or sheets in the case file. The case action summary sheet or sheets shall be the official minutes of the case and shall have the same force and effect as the entries previously contained in "minute books." These case action summary sheets may be maintained in the same manner as all other court records.

(2) *Retroactive Effect of Rule.* All notations entered on case action summary sheets prior to the adoption of this rule shall be sufficient minute entries if the entry otherwise substantially complies with the substantive provisions of this rule.

(3) *Sufficiency of the Case Action Summary Sheets as Record.* The case action summary sheets shall be sufficient record of the actions in a particular case. The clerk of the court shall not be required to duplicate or copy the information and entries contained on any case action summary sheet except when the defendant is sentenced to death or when an appeal is taken (see paragraph (e)).

**(d) Admissibility Into Evidence of the Case Action Summary Sheet.** A certified copy of the case action summary sheet shall be admissible in any court of this state as evidence of a conviction or any other action recorded thereon, if evidence of the conviction or other action is otherwise admissible. A certified copy of the case action summary sheet shall be prima facie evidence of the jurisdiction of the court maintaining the sheet, both as to the

offense and as to the defendant, and of all facts recited therein; provided, however, that if the trial court determines that any of the information recorded on the case action summary sheet may be prejudicial to the defendant, the court may admit the case action summary sheet into evidence and inform the jury of the fact of conviction as indicated by the sheet, but not allow the jury to view the prejudicial matters.

**(e) Old-Style Minute Entries for Appeals and Cases in Which Death Sentences Have Been Imposed.**

(1) Notwithstanding that this rule declares the case action summary sheet to constitute the official minutes of a case and prescribes for the case action summary sheet the same force and effect as entries contained in "minute books" prior to the adoption of this rule, in any case in which an appeal has been taken or in which a sentence of death has been imposed, the clerk of the trial court shall use the following procedure: Upon the giving or filing of a notice of appeal or the entry of a sentence of death, the clerk shall prepare a set of minutes resembling the formal minutes that would have been made in any action and entered in the "minute books" prior to the adoption of this rule. These old-style formal entries shall record all actions, motions, orders, and judgments and shall be included in the clerk's record sent to the Court of Criminal Appeals. These old-style entries shall be prepared from the same sources as the entries recorded on the case action summary sheet and shall be arranged in the same sequence. These old-style entries prepared for appeals shall be preceded by an index reflecting the order of all actions, motions, orders, and judgments. In addition to these old-style entries, the clerk's record on appeal shall include a copy of the case action summary sheet.

(2) If the defendant is sentenced to death, then the sentence entry shall include, but shall not be limited to, the following information:

(i) A statement indicating before whom the sentence hearing was conducted (i.e., the trial judge and trial jury, the trial judge and another jury, or the trial judge alone);

(ii) The jury's advisory verdict, along with its vote, unless waived, in which event the entry shall note that the defendant voluntarily waived the right to an advisory verdict after having been expressly informed thereof by the court;

(iii) A statement indicating that the trial judge, in deciding the sentence, ordered, received, and reviewed the written pre-sentence report;



(iv) A statement indicating that the trial judge heard evidence from the State and the defendant concerning the pre-sentence report and gave each the opportunity to respond to the other's evidence and that each did respond or waived the right to do so;

(v) A statement indicating that the trial judge permitted the State and the defendant the opportunity to present argument concerning the existence of aggravating and mitigating circumstances and that each did present such argument or waived the right to do so, and, further, that the judge permitted the State and the defendant the opportunity to make argument as to the appropriate sentence, and that each did so or waived the right to do so;

(vi) A statement a) indicating that the trial judge considered the evidence presented at trial, in the pre-sentence report, and at the sentence hearing; b) setting out the judge's specific findings concerning the existence or non-existence of each aggravating circumstance enumerated in § 13A-5-49, Code 1975, each mitigating circumstance enumerated in § 13A-5-51, and any additional mitigating circumstances offered pursuant to § 13A-5-52; and c) summarizing the facts of the crime and the defendant's participation therein;

(vii) A statement indicating that the trial judge weighed any aggravating and mitigating circumstances in evidence and considered the recommendation of the jury in its advisory verdict (unless the right to an advisory verdict was waived);

(viii) A statement indicating that the judge found the aggravating circumstance(s) outweighed the mitigating circumstances, if any; and

(ix) Any order of the court concerning the transfer of the inmate to the prison system pursuant to Rule 8, Alabama Rules of Appellate Procedure.

#### Comment

This rule is intended to simplify the method by which the clerk maintains criminal records and to prevent the need to duplicate entries on the case action summary sheet in a separate minute book. This rule is not intended to change the information required in a minute entry, but is intended to eliminate the need for a particular form or for an elaborate recital. This rule does not eliminate the need to show the presence of counsel at each state of the proceedings, or the waiver thereof; nor does this rule eliminate the need to show that proceedings such as the entry of the plea occurred in open court.

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LEGAL & CONTRACT INTEREST RATES, BY STATES,  
MARCH 1989

	Legal Rates 1989	Contract Rates 1989
Alabama.....	6.0%	8.0% (A)
Alaska.....	10.5%	12.0% (B)
Arizona.....	10.0%	No Limit
Arkansas.....	6.0%	12.0%
California.....	7.0%	12.0% (C)
Colorado.....	8.0%	No Limit
Connecticut.....	8.0%	12.0%
Delaware.....	11.5%	12.0% (B)
District of Columbia.....	6.0%	24.0% (B)
Florida.....	12.0%	25.0%
Georgia.....	7.0%	16.0% (B)
Hawaii.....	10.0%	1.0% Per Month
Idaho.....	12.0%	No Limit
Illinois.....	5.0%	9.0% (B)
Indiana.....	8.0%	UCCC Blended Rates
Iowa.....	5.0%	11.0% (B)(D)
Kansas.....	10.0%	15.0% (B)
Kentucky.....	8.0%	11.0% (B)
Louisiana.....	12.0%	12.0% (B)
Maine.....	6.0%	UCCC Rates
Maryland.....	6.0%	8.0% (B)
Massachusetts.....	6.0%	No Limit
Michigan.....	5.0%	15.0% (B)
Minnesota.....	6.0%	11.5% (B)
Mississippi.....	8.0%	12.0%
Missouri.....	9.0%	12.1% (B)
Montana.....	10.0%	6.0% Over Prime
Nebraska.....	6.0%	16.0% (B)
Nevada.....	2.0% Over Prime	No Limit
New Hampshire.....	10.0%	No Limit
New Jersey.....	6.0%	16.0% (B)
New Mexico.....	15.0%	No Limit
New York.....	16.0%	16.0% (B)
North Carolina.....	8.0%	16.0% (B)(D)
North Dakota.....	8.0%	8.0% (E)
Ohio.....	10.0%	15.0% (B)
Oklahoma.....	6.0%	No Limit
Oregon.....	9.0%	12.0% (B)
Pennsylvania.....	6.0% (C)	12.0% (B)
Puerto Rico.....		

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Rhode Island.....	12.0%	21.0% (E)
South Carolina.....	6.0% (C)	No Limit
South Dakota.....	15.0%	No Limit
Tennessee.....	10.0%	15.5% (C)
Texas.....	6.0%	28.0% (C)
Utah.....	10.0%	No Limit
Vermont.....	12.0%	12.0% (C)
Virginia.....	8.0%	12.0% (C)
Washington.....	12.0%	13.04% (D)
West Virginia.....	6.0%	18.0% (C)
Wisconsin.....	5.0% (C)	No limit
Wyoming.....	7.0%	Governed by UCCC

- (A) Rate varies based on formula, fixed rate shown.
- (B) No limit for certain loans or loans above a specified amount.
- (C) Rate varies, highest fixed rate shown.
- (D) Rate shown set as of March 1989.
- (E) Rate based on Treasury bills, highest fixed rate shown.

This table summarizes only the broad, general provisions of state laws setting maximum legal and contract rates of interest, and it does not summarize rates fixed for special types of loans.

The parties to a transaction may agree on a specific rate of interest. The maximum rate that may be agreed upon is usually fixed by law. This is the "contract rate."

If a specific rate is not agreed upon, then the maximum rate that may be taken is the "legal rate," fixed by law in all states.

Interest in excess of the rate permitted by law is usurious. All states provide penalties for taking such interest.

Source: **Consumer Credit Guide**, Commerce Clearing House Inc., 4025 W. Peterson Avenue, Chicago, IL 60646, and Legal Department, American Bankers Association.

**1980 Commissioners Standard Ordinary Mortality Table**  
**Basic Value 6.00%**  
**Age Near Birthday**  
**Male**

AGE x	$L_x$	$d_x$	$1000q_x$	$\bar{L}_x$	$v^x$	AGE x
0	10 000 000	41 800	4.18	70.83	1.000 000 00	0
1	9 958 200	10 555	1.07	70.13	.843 288 23	1
2	9 947 545	9 848	.99	69.20	.888 886 44	2
3	9 927 987	9 739	.98	68.77	.829 818 24	3
4	9 927 958	9 432	.95	67.54	.782 083 68	4
5	9 918 526	8 927	.90	66.40	.747 258 17	5
6	9 909 599	8 522	.88	65.46	.704 880 54	6
7	9 901 077	7 921	.80	64.52	.685 051 11	7
8	9 893 156	7 518	.76	63.57	.627 412 37	8
9	9 885 837	7 315	.74	62.62	.591 888 46	9
10	9 878 222	7 211	.73	61.68	.558 384 78	10
11	9 871 111	7 004	.71	60.71	.528 787 53	11
12	9 863 810	6 884	.65	59.75	.496 969 36	12
13	9 855 128	6 757	.69	58.80	.468 839 89	13
14	9 845 368	11 222	1.15	57.88	.442 300 96	14
15	9 834 047	13 079	1.33	56.93	.417 265 06	15
16	9 820 968	14 830	1.51	56.00	.393 646 28	16
17	9 806 138	16 376	1.67	55.09	.371 364 42	17
18	9 789 762	17 426	1.78	54.18	.350 343 79	18
19	9 772 336	18 177	1.86	53.27	.330 513 01	19
20	9 754 159	18 533	1.90	52.37	.311 804 73	20
21	9 735 826	18 585	1.91	51.47	.294 155 40	21
22	9 717 031	18 365	1.89	50.57	.277 505 10	22
23	9 698 666	18 040	1.85	49.66	.261 872 76	23
24	9 680 626	17 619	1.82	48.75	.246 978 55	24
25	9 663 007	17 104	1.77	47.84	.232 988 63	25
26	9 645 903	16 687	1.73	46.93	.219 810 03	26
27	9 628 417	16 166	1.71	46.01	.207 367 85	27
28	9 612 750	15 642	1.70	45.09	.195 630 14	28
29	9 596 008	15 410	1.71	44.16	.184 556 74	29
30	9 579 888	15 573	1.73	43.24	.174 214 13	30
31	9 563 425	17 023	1.78	42.31	.164 258 84	31
32	9 546 402	17 470	1.83	41.38	.154 857 40	32
33	9 528 932	18 200	1.91	40.46	.146 186 22	33
34	9 510 732	18 021	2.00	39.54	.137 914 53	34
35	9 492 711	20 028	2.11	38.61	.130 105 27	35
36	9 471 683	21 217	2.24	37.69	.122 740 77	36
37	9 450 466	22 681	2.40	36.78	.115 783 18	37
38	9 427 785	24 324	2.58	35.87	.109 234 85	38
39	9 404 681	26 336	2.79	34.96	.103 055 82	39
40	9 377 225	28 318	3.02	34.05	.097 222 19	40
41	9 348 906	30 758	3.29	33.16	.091 719 05	41
42	9 318 148	32 173	3.56	32.26	.086 527 40	42
43	9 286 875	32 833	3.77	31.38	.081 629 62	43
44	9 249 042	38 753	4.19	30.50	.077 009 08	44
45	9 210 289	41 907	4.55	29.62	.072 650 07	45
46	9 169 382	45 108	4.92	28.76	.068 537 81	46
47	9 123 274	48 536	5.32	27.90	.064 658 31	47
48	9 074 738	52 089	5.74	27.04	.060 998 40	48
49	9 022 848	56 031	6.21	26.20	.057 558 68	49
50	8 968 188	60 188	6.71	25.38	.054 332 81	50
51	8 906 452	65 017	7.30	24.52	.051 215 44	51
52	8 841 435	70 378	7.96	23.70	.048 316 45	52
53	8 771 057	76 385	8.71	22.89	.045 561 56	53
54	8 698 121	83 121	9.56	22.08	.043 001 17	54
55	8 611 540	90 163	10.47	21.29	.040 527 42	55
56	8 521 377	97 555	11.46	20.51	.038 271 15	56
57	8 427 722	105 212	12.49	19.74	.036 204 86	57
58	8 330 510	113 049	13.59	18.99	.034 306 19	58
59	8 205 481	121 195	14.77	18.24	.032 133 20	59
60	8 084 266	129 895	16.08	17.51	.030 314 34	60
61	7 941 271	139 518	17.54	16.79	.028 598 43	61
62	7 714 753	149 865	19.19	16.08	.026 979 65	62
63	7 664 788	161 420	21.06	15.38	.025 452 50	63
64	7 503 358	173 628	23.14	14.70	.024 011 79	64
65	7 383 740	186 322	25.42	14.04	.022 652 84	65
66	7 143 418	198 844	27.85	13.39	.021 370 41	66
67	6 944 474	211 390	30.44	12.76	.020 160 77	67
68	6 733 084	223 471	33.19	12.14	.019 019 58	68
69	6 508 613	235 453	36.17	11.54	.017 943 01	69
70	6 274 160	247 892	39.51	10.96	.016 827 37	70
71	6 026 268	260 937	43.30	10.39	.015 669 21	71
72	5 765 331	274 718	47.65	9.84	.015 065 20	72
73	5 488 619	289 019	52.64	9.30	.014 212 84	73
74	5 201 587	302 680	58.19	8.79	.013 408 06	74
75	4 898 907	314 461	64.19	8.31	.012 649 11	75
76	4 584 448	323 341	70.53	7.84	.011 923 33	76
77	4 241 105	328 618	77.12	7.40	.011 237 67	77
78	4 932 489	329 936	83.80	6.97	.010 620 44	78
79	3 602 553	328 012	91.05	6.57	.010 019 28	79
80	3 274 541	322 658	98.84	6.18	.009 452 45	80
81	2 950 885	317 181	107.41	5.80	.008 877 13	81
82	2 633 724	308 804	117.25	5.44	.008 412 38	82
83	2 324 920	298 194	128.26	5.09	.007 936 21	83
84	2 026 726	284 248	140.25	4.77	.007 487 43	84
85	1 742 478	266 512	152.85	4.46	.007 063 20	85
86	1 475 966	245 143	166.09	4.18	.006 663 40	86
87	1 230 823	220 994	179.55	3.91	.006 286 22	87
88	981 009	185 170	189.27	3.66	.005 936 40	88
89	814 658	168 871	207.79	3.41	.005 594 72	89
90	645 788	143 218	221.77	3.18	.005 278 03	90
91	502 572	118 100	236.88	2.94	.004 879 28	91
92	286 281	77 800	272.11	2.70	.004 497 43	92
93	208 381	81 660	295.90	2.47	.004 431 64	93
94	146 721	48 412	328.86	1.87	.004 180 70	94
95	98 309	37 806	384.55	1.57	.003 944 05	95
96	60 504	28 054	460.70	1.20	.003 510 19	96
97	31 450	20 693	657.98	.84	.003 311 50	97
98	10 757	10 757	1000 00	.50	.003 124 05	98
99						99

Description of meaning of codes on CSO Table

1x = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

1989

1980 Commissioners Standard Ordinary Mortality Table  
Basic Value 6.00%  
Age Near Birthday  
Female

AGE x	$L_x$	$d_x$	$1000q_x$	$\bar{e}_x$	$U^x$	AGE x
0	10 000 000	28 800	2.88	75.83	1.000 000 00	0
1	9 971 100	8 875	.87	75.04	.943 398 23	1
2	9 862 425	8 070	.81	74.11	.889 898 44	2
3	9 834 255	7 884	.79	73.17	.839 818 28	3
4	9 846 491	7 859	.77	72.23	.787 092 86	4
5	9 938 832	7 554	.76	71.28	.747 258 17	5
6	9 931 278	7 250	.73	70.34	.704 860 84	6
7	9 924 028	7 145	.72	69.39	.665 057 11	7
8	9 916 883	6 842	.70	68.44	.627 412 37	8
9	9 909 841	6 338	.69	67.48	.591 898 48	9
10	9 903 103	6 734	.68	66.53	.558 384 78	10
11	9 895 269	6 828	.69	65.58	.526 787 53	11
12	9 885 541	7 120	.72	64.62	.496 969 38	12
13	9 882 421	7 412	.75	63.67	.468 839 02	13
14	9 875 009	7 800	.80	62.71	.442 300 86	14
15	9 867 109	8 287	.85	61.76	.417 265 08	15
16	9 858 722	8 873	.90	60.82	.393 646 26	16
17	9 849 849	9 357	.95	59.87	.371 364 42	17
18	9 840 492	9 844	.98	58.93	.350 343 79	18
19	9 830 848	10 327	1.02	57.98	.330 512 01	19
20	9 820 821	10 312	1.05	57.04	.311 802 73	20
21	9 810 509	10 497	1.07	56.10	.294 155 40	21
22	9 800 012	10 682	1.09	55.16	.277 505 10	22
23	9 789 320	10 866	1.11	54.22	.261 797 26	23
24	9 778 464	11 147	1.14	53.28	.246 978 55	24
25	9 767 317	11 320	1.16	52.34	.232 998 63	25
26	9 755 987	11 510	1.19	51.40	.219 810 03	26
27	9 744 377	11 888	1.22	50.46	.207 361 51	27
28	9 732 489	12 263	1.26	49.52	.195 630 14	28
29	9 720 226	12 636	1.30	48.58	.184 556 74	29
30	9 707 590	13 005	1.35	47.64	.174 105 35	30
31	9 694 485	13 572	1.40	46.71	.164 254 84	31
32	9 680 913	14 037	1.45	45.78	.154 857 40	32
33	9 666 876	14 500	1.50	44.84	.146 186 22	33
34	9 652 378	15 781	1.58	43.91	.138 250 85	34
35	9 637 125	15 901	1.65	42.98	.130 105 22	35
36	9 621 224	16 833	1.76	42.05	.122 740 77	36
37	9 604 681	18 152	1.89	41.12	.115 793 18	37
38	9 586 519	19 139	2.04	40.20	.109 250 85	38
39	9 566 883	21 236	2.22	39.28	.103 055 52	39
40	9 545 345	23 100	2.42	38.36	.097 222 19	40
41	9 522 455	24 129	2.57	37.48	.091 719 05	41
42	9 497 106	27 257	2.87	36.55	.086 527 40	42
43	9 469 849	29 262	3.09	35.66	.081 629 82	43
44	9 440 587	31 343	3.32	34.77	.077 008 08	44
45	9 409 744	33 466	3.56	33.88	.072 657 07	45
46	9 375 747	35 628	3.80	33.00	.068 537 81	46
47	9 340 118	37 827	4.05	32.12	.064 558 31	47
48	9 292 282	40 278	4.33	31.25	.060 898 40	48
49	9 263 013	42 843	4.61	30.39	.057 560 83	49
50	9 219 130	45 727	4.96	29.53	.054 288 38	50
51	9 172 403	48 711	5.31	28.67	.051 215 44	51
52	9 123 681	51 792	5.66	27.82	.048 316 56	52
53	9 072 681	55 787	6.15	26.98	.045 561 58	53
54	9 016 884	59 602	6.61	26.14	.043 001 47	54
55	8 957 282	63 507	7.09	25.31	.040 567 42	55
56	8 895 849	67 778	7.57	24.49	.038 329 89	56
57	8 832 449	70 876	8.03	23.67	.036 104 88	57
58	8 755 573	74 160	8.47	22.85	.034 061 19	58
59	8 668 413	77 612	8.94	22.05	.032 133 20	59
60	8 563 801	81 478	9.47	21.25	.030 314 34	60
61	8 522 323	85 331	10.13	20.44	.028 598 43	61
62	8 435 892	89 458	10.66	19.65	.026 979 65	62
63	8 342 534	100 289	12.02	18.86	.025 452 50	63
64	8 243 245	109 223	13.25	18.08	.024 011 19	64
65	8 134 022	118 675	14.59	17.32	.022 652 64	65
66	8 015 347	128 246	15.90	16.57	.021 370 41	66
67	7 887 101	137 472	17.43	15.83	.020 180 77	67
68	7 749 829	146 003	18.84	15.10	.019 019 59	68
69	7 603 626	154 810	20.36	14.38	.017 943 01	69
70	7 448 816	164 683	22.11	13.67	.016 927 37	70
71	7 284 123	176 882	24.23	12.97	.015 969 11	71
72	7 107 829	190 882	26.87	12.28	.015 065 30	72
73	6 916 647	208 260	30.11	11.60	.014 212 54	73
74	6 708 287	227 708	33.93	10.95	.013 408 66	74
75	6 480 771	247 825	38.24	10.32	.012 648 11	75
76	6 232 948	267 830	42.97	9.71	.011 933 13	76
77	5 965 116	286 584	48.04	9.12	.011 257 87	77
78	5 684 552	303 219	53.19	8.55	.010 619 28	78
79	5 375 033	319 008	59.35	8.01	.010 019 28	79
80	5 056 025	333 647	65.99	7.48	.009 452 15	80
81	4 714 378	347 567	73.60	6.98	.008 917 13	81
82	4 374 278	360 484	82.40	6.49	.008 410 11	82
83	4 014 327	371 446	92.53	6.03	.007 936 21	83
84	3 642 881	378 167	103.81	5.59	.007 488 98	84
85	3 264 714	383 033	116.10	5.18	.007 063 20	85
86	2 885 681	377 080	129.28	4.80	.006 660 40	86
87	2 512 591	360 105	143.32	4.43	.006 286 22	87
88	2 152 486	340 480	158.18	4.09	.005 930 40	88
89	1 812 006	315 006	173.99	3.77	.005 594 72	89
90	1 496 828	285 520	190.75	3.45	.005 270 03	90
91	1 211 306	253 005	208.87	3.15	.004 979 28	91
92	958 301	218 269	228.81	2.85	.004 697 43	92
93	719 332	185 814	251.11	2.55	.004 474 11	93
94	553 158	154 503	279.31	2.24	.004 300 70	94
95	398 655	126 501	317.32	1.91	.003 944 05	95
96	272 544	102 259	375.74	1.58	.003 720 81	96
97	169 895	80 684	474.97	1.21	.003 510 18	97
98	89 200	58 502	655.85	.84	.003 311 50	98
99	30 698	30 698	1000.00	.50	.003 124 08	99

Description of meaning of codes on CSO Table

1x = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

### Annuity Certain Table

Annuity Table showing the current present cash value of an annuity certain of one hundred dollars per month, month by month from two to four hundred eighty months at 2%, 2½%, 3%, 3½%, 4%, 4½%, 5%, 5½%, and 6%.  
As provided in Act No. 456, Approved August 31, 1953.

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
1	99.83	99.79	99.75	99.70	99.66	99.62	99.58	99.54	99.50
2	199.50	199.37	199.25	199.12	199.00	198.88	198.75	198.63	198.50
3	299.00	298.75	298.50	298.25	298.01	297.76	297.51	297.27	297.02
4	398.33	397.92	397.51	397.10	396.68	396.27	395.86	395.45	395.04
5	497.50	496.89	496.27	495.65	495.03	494.42	493.81	493.19	492.58
6	596.15	595.64	594.78	593.92	593.06	592.20	591.34	590.49	589.63
7	695.35	694.20	693.05	691.90	690.75	689.61	688.47	687.34	686.20
8	794.03	792.55	791.07	789.60	788.13	786.66	785.20	783.74	782.29
9	892.54	890.69	888.85	887.01	885.18	883.35	881.53	879.71	877.90
10	990.89	988.63	986.38	984.14	981.90	979.68	977.46	975.24	973.04
11	1,089.07	1,086.37	1,083.67	1,080.99	1,078.31	1,075.64	1,072.98	1,070.34	1,067.70
12	1,187.10	1,183.90	1,180.72	1,177.55	1,174.39	1,171.25	1,168.12	1,165.00	1,161.89
13	1,284.95	1,281.23	1,277.53	1,273.84	1,270.16	1,266.50	1,262.86	1,259.23	1,255.61
14	1,382.65	1,378.36	1,374.09	1,369.84	1,365.61	1,361.40	1,357.20	1,353.02	1,348.87
15	1,480.18	1,475.29	1,470.42	1,465.57	1,460.74	1,455.94	1,451.15	1,446.39	1,441.66
16	1,577.55	1,572.01	1,566.50	1,561.01	1,555.55	1,550.12	1,544.72	1,539.34	1,533.99
17	1,674.76	1,668.54	1,662.34	1,656.18	1,650.05	1,643.96	1,637.89	1,631.86	1,625.86
18	1,771.18	1,764.86	1,757.95	1,751.08	1,744.24	1,737.44	1,730.68	1,723.96	1,717.27
19	1,868.69	1,860.98	1,853.32	1,845.69	1,838.11	1,830.58	1,823.09	1,815.64	1,808.23
20	1,965.42	1,956.91	1,948.44	1,940.03	1,931.67	1,923.36	1,915.11	1,906.90	1,898.74
21	2,061.98	2,052.63	2,043.34	2,034.10	2,024.92	2,015.81	2,006.74	1,997.74	1,988.79
22	2,158.38	2,148.15	2,137.99	2,127.89	2,117.86	2,107.90	2,098.00	2,088.17	2,078.40
23	2,254.63	2,243.48	2,232.41	2,221.42	2,210.50	2,199.65	2,188.88	2,178.19	2,167.56
24	2,350.71	2,338.61	2,326.59	2,314.66	2,302.82	2,291.06	2,279.38	2,267.79	2,256.28
25	2,446.63	2,433.54	2,420.54	2,407.64	2,394.84	2,382.13	2,369.51	2,356.99	2,344.56
26	2,542.39	2,528.27	2,514.26	2,500.35	2,486.55	2,472.85	2,459.26	2,445.78	2,432.40
27	2,638.00	2,622.81	2,607.74	2,592.79	2,577.96	2,563.24	2,548.65	2,534.16	2,519.80
28	2,733.44	2,717.15	2,700.98	2,684.96	2,669.06	2,653.29	2,637.66	2,622.15	2,606.76
29	2,828.73	2,811.29	2,794.00	2,776.86	2,759.86	2,743.01	2,726.30	2,709.73	2,693.30
30	2,923.85	2,905.24	2,886.78	2,868.49	2,850.36	2,832.38	2,814.57	2,796.91	2,779.40

31	3,018.82	2,998.99	2,979.33	2,959.86	2,940.56	2,921.43	2,902.47	2,883.69	2,865.08
32	3,113.63	3,092.55	3,071.65	3,050.96	3,030.45	3,010.14	2,990.02	2,970.08	2,950.32
33	3,208.29	3,185.91	3,163.75	3,141.79	3,120.05	3,098.52	3,077.19	3,056.07	3,035.15
34	3,302.78	3,279.08	3,255.61	3,232.37	3,209.36	3,186.57	3,164.01	3,141.67	3,119.55
35	3,397.12	3,372.05	3,347.24	3,322.68	3,298.36	3,274.29	3,250.47	3,226.88	3,203.53
36	3,491.30	3,464.83	3,438.64	3,412.72	3,387.07	3,361.69	3,336.57	3,311.70	3,287.10
37	3,585.33	3,557.42	3,529.82	3,502.51	3,475.49	3,448.75	3,422.31	3,396.14	3,370.25
38	3,679.19	3,649.82	3,620.77	3,592.03	3,563.61	3,535.50	3,507.69	3,480.19	3,452.98
39	3,772.91	3,742.02	3,711.49	3,681.29	3,651.44	3,621.91	3,592.72	3,563.85	3,535.30
40	3,866.46	3,834.03	3,801.98	3,770.30	3,738.97	3,708.01	3,677.40	3,647.14	3,617.22
41	3,959.86	3,925.86	3,892.25	3,859.04	3,826.22	3,793.78	3,761.72	3,730.04	3,698.72
42	4,053.11	4,017.49	3,982.29	3,947.53	3,913.18	3,879.24	3,845.70	3,812.57	3,779.83
43	4,146.20	4,108.93	4,072.11	4,035.76	3,999.84	3,964.37	3,929.33	3,894.71	3,860.52
44	4,239.13	4,200.18	4,161.71	4,123.73	4,086.22	4,049.18	4,012.61	3,976.49	3,940.82
45	4,331.91	4,291.24	4,251.08	4,211.44	4,172.31	4,133.68	4,095.54	4,057.89	4,020.71
46	4,424.54	4,382.11	4,340.23	4,298.91	4,258.12	4,217.87	4,178.14	4,138.92	4,100.21
47	4,517.01	4,472.79	4,429.16	4,386.11	4,343.64	4,301.73	4,260.38	4,219.58	4,179.32
48	4,609.33	4,563.28	4,517.86	4,473.07	4,428.88	4,385.29	4,342.29	4,299.87	4,258.03
49	4,701.49	4,653.59	4,606.35	4,559.77	4,513.83	4,468.53	4,423.86	4,379.80	4,336.35
50	4,793.50	4,743.70	4,694.61	4,646.22	4,598.50	4,551.46	4,505.09	4,459.36	4,414.27
51	4,885.36	4,833.63	4,782.66	4,732.41	4,682.89	4,634.09	4,585.98	4,538.56	4,491.81
52	4,977.06	4,923.38	4,870.48	4,818.36	4,767.00	4,716.40	4,666.53	4,617.40	4,568.97
53	5,068.62	5,012.93	4,958.08	4,904.06	4,850.83	4,798.41	4,746.76	4,695.87	4,645.74
54	5,160.02	5,102.30	5,045.47	4,989.50	4,934.39	4,880.11	4,826.65	4,773.99	4,722.13
55	5,251.26	5,191.49	5,132.64	5,074.70	5,017.66	4,961.50	4,906.20	4,851.75	4,798.14
56	5,342.36	5,280.49	5,219.59	5,159.65	5,100.66	5,042.59	4,985.43	4,929.16	4,873.77
57	5,433.30	5,369.30	5,306.32	5,244.36	5,183.38	5,123.38	5,064.33	5,006.22	4,949.03
58	5,524.10	5,457.93	5,392.84	5,328.81	5,265.83	5,203.86	5,142.90	5,082.92	5,023.91
59	5,614.74	5,546.37	5,479.14	5,413.03	5,348.00	5,284.05	5,221.15	5,159.27	5,098.41
60	5,705.23	5,634.61	5,565.23	5,496.99	5,429.90	5,363.93	5,299.07	5,235.28	5,172.55
61	5,795.57	5,722.71	5,651.10	5,580.72	5,511.53	5,443.52	5,376.66	5,310.94	5,246.32
62	5,885.76	5,810.61	5,736.76	5,664.20	5,592.89	5,522.81	5,453.94	5,386.25	5,319.72
63	5,975.80	5,898.32	5,822.21	5,747.43	5,673.97	5,601.80	5,530.89	5,461.22	5,392.76
64	6,065.69	5,985.85	5,907.44	5,830.43	5,754.79	5,680.50	5,607.53	5,535.85	5,465.43
65	6,155.43	6,073.20	5,992.46	5,913.18	5,835.34	5,758.90	5,683.85	5,610.13	5,537.74

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
66	6,245.03	6,160.36	6,077.26	5,995.69	5,915.62	5,837.02	5,759.85	5,684.08	5,609.69
67	6,334.47	6,247.35	6,161.86	6,077.97	5,995.64	5,914.84	5,835.53	5,757.69	5,681.29
68	6,423.76	6,334.15	6,246.24	6,160.00	6,075.38	5,992.36	5,910.90	5,830.97	5,752.52
69	6,512.91	6,420.77	6,330.42	6,241.79	6,154.87	6,069.60	5,985.96	5,903.91	5,823.41
70	6,601.90	6,507.22	6,414.38	6,323.35	6,234.09	6,146.55	6,060.71	5,976.51	5,893.94
71	6,690.75	6,593.48	6,498.14	6,404.67	6,313.04	6,223.22	6,135.14	6,048.79	5,964.12
72	6,779.45	6,679.57	6,581.68	6,485.75	6,391.74	6,299.59	6,209.27	6,120.74	6,033.95
73	6,868.01	6,765.47	6,665.02	6,566.60	6,470.17	6,375.68	6,283.09	6,192.36	6,103.43
74	6,956.14	6,851.20	6,748.15	6,647.21	6,548.34	6,451.49	6,356.61	6,263.65	6,172.57
75	7,044.67	6,936.75	6,831.07	6,727.59	6,626.26	6,527.01	6,429.82	6,334.61	6,241.36
76	7,132.78	7,022.12	6,913.79	6,807.74	6,703.91	6,602.26	6,502.72	6,405.26	6,309.81
77	7,220.75	7,107.31	6,996.29	6,887.65	6,781.31	6,677.22	6,575.32	6,475.58	6,377.92
78	7,308.57	7,192.33	7,078.60	6,967.32	6,858.44	6,751.90	6,647.63	6,545.58	6,445.69
79	7,396.24	7,277.16	7,160.70	7,046.77	6,935.33	6,826.30	6,719.63	6,615.26	6,513.13
80	7,483.77	7,361.83	7,242.59	7,125.99	7,011.95	6,900.42	6,791.33	6,684.62	6,580.23
81	7,571.15	7,446.31	7,324.28	7,204.97	7,088.33	6,974.27	6,862.74	6,753.66	6,646.99
82	7,658.38	7,530.63	7,405.77	7,283.73	7,164.44	7,047.84	6,933.84	6,822.39	6,713.42
83	7,745.48	7,614.76	7,487.05	7,362.26	7,240.31	7,121.13	7,004.66	6,890.81	6,779.53
84	7,832.42	7,698.72	7,568.13	7,440.55	7,315.92	7,194.16	7,075.18	6,958.92	6,845.30
85	7,919.22	7,782.51	7,649.00	7,518.62	7,391.29	7,266.91	7,145.41	7,026.71	6,910.75
86	8,005.88	7,866.12	7,729.68	7,596.47	7,466.40	7,339.38	7,215.34	7,094.20	6,975.87
87	8,092.39	7,949.56	7,810.15	7,674.09	7,541.26	7,411.59	7,284.99	7,161.37	7,040.66
88	8,178.76	8,032.82	7,890.43	7,751.48	7,615.87	7,483.53	7,354.34	7,228.24	7,105.14
89	8,264.99	8,115.92	7,970.50	7,828.64	7,690.24	7,555.19	7,423.41	7,294.81	7,169.29
90	8,351.07	8,198.84	8,050.38	7,905.59	7,764.36	7,626.59	7,492.20	7,361.07	7,233.13
91	8,437.01	8,281.58	8,130.05	7,982.30	7,838.23	7,697.73	7,560.69	7,427.03	7,296.64
92	8,522.80	8,364.16	8,209.53	8,058.80	7,911.86	7,768.60	7,628.91	7,492.69	7,359.84
93	8,608.45	8,446.56	8,288.81	8,135.07	7,985.24	7,839.20	7,696.84	7,558.05	7,422.73
94	8,693.96	8,528.79	8,367.89	8,211.12	8,058.38	7,909.54	7,764.48	7,623.11	7,485.30
95	8,779.33	8,610.85	8,446.77	8,286.95	8,131.27	7,979.61	7,831.85	7,687.87	7,547.56
96	8,864.56	8,692.74	8,525.46	8,362.56	8,203.93	8,049.43	7,898.94	7,752.34	7,609.52
97	8,949.64	8,774.46	8,603.95	8,437.95	8,276.34	8,118.98	7,965.75	7,816.51	7,671.16
98	9,034.58	8,856.01	8,682.24	8,513.12	8,348.51	8,188.28	8,032.28	7,880.40	7,732.50



99	9,119.38	8,037.39	8,760.34	8,588.07	8,420.44	8,257.31	8,098.54	7,943.99	7,793.53
100	9,204.04	9,018.60	8,838.24	8,662.81	8,492.14	8,326.09	8,164.52	8,007.29	7,854.26
101	9,288.56	9,099.65	8,915.95	8,737.32	8,563.59	8,394.61	8,230.23	8,070.30	7,914.69
102	9,372.94	9,180.52	8,993.47	8,811.62	8,634.81	8,462.87	8,295.66	8,133.02	7,974.81
103	9,457.18	9,261.23	9,070.79	8,885.70	8,705.79	8,530.88	8,360.82	8,195.46	8,034.64
104	9,541.28	9,341.76	9,147.92	8,959.57	8,776.53	8,598.64	8,425.72	8,257.61	8,094.17
105	9,625.24	9,422.13	9,224.86	9,033.23	8,847.04	8,666.14	8,490.34	8,319.48	8,153.40
106	9,709.05	9,502.34	9,301.61	9,106.66	8,917.32	8,733.39	8,554.69	8,381.07	8,212.34
107	9,792.73	9,582.37	9,378.16	9,179.89	8,987.36	8,800.39	8,618.78	8,442.37	8,270.98
108	9,876.27	9,662.24	9,454.53	9,252.90	9,057.17	8,867.14	8,682.61	8,503.40	8,329.34
109	9,959.67	9,741.95	9,530.70	9,325.70	9,126.75	8,933.63	8,746.16	8,564.15	8,387.40
110	10,042.94	9,821.49	9,606.68	9,398.29	9,196.10	8,999.88	8,809.46	8,624.62	8,445.17
111	10,126.06	9,900.86	9,682.48	9,470.67	9,265.21	9,065.89	8,872.49	8,684.81	8,502.66
112	10,209.04	9,980.07	9,758.08	9,542.83	9,334.10	9,131.64	8,935.26	8,744.73	8,559.86
113	10,291.89	10,059.11	9,833.50	9,614.79	9,402.75	9,197.15	8,997.77	8,804.38	8,616.78
114	10,374.60	10,137.99	9,908.72	9,686.54	9,471.18	9,262.42	9,060.02	8,863.75	8,673.41
115	10,457.17	10,216.71	9,983.77	9,758.08	9,539.39	9,327.44	9,122.01	8,922.86	8,729.76
116	10,539.60	10,295.26	10,058.62	9,829.41	9,607.36	9,392.22	9,183.74	8,981.69	8,785.83
117	10,621.90	10,373.65	10,133.29	9,900.53	9,675.11	9,456.76	9,245.22	9,040.26	8,841.62
118	10,704.06	10,451.87	10,207.77	9,971.45	9,742.64	9,521.06	9,306.44	9,098.55	8,897.14
119	10,786.08	10,529.93	10,282.06	10,042.16	9,809.94	9,585.11	9,367.41	9,156.59	8,952.38
120	10,867.97	10,607.83	10,356.17	10,112.66	9,877.01	9,648.93	9,428.13	9,214.35	9,007.34
121	10,949.72	10,685.57	10,430.10	10,182.96	9,943.87	9,712.51	9,488.59	9,271.86	9,062.03
122	11,031.34	10,763.15	10,503.84	10,253.06	10,010.50	9,775.85	9,548.81	9,329.10	9,116.45
123	11,112.81	10,840.57	10,577.39	10,322.95	10,076.91	9,838.95	9,608.77	9,386.08	9,170.59
124	11,194.16	10,917.82	10,650.77	10,392.64	10,143.10	9,901.82	9,668.49	9,442.80	9,224.47
125	11,275.37	10,994.91	10,723.96	10,462.12	10,209.07	9,964.45	9,727.95	9,499.26	9,278.08
126	11,356.44	11,071.85	10,796.96	10,531.41	10,274.82	10,026.85	9,787.17	9,555.47	9,331.42
127	11,437.38	11,148.62	10,869.79	10,600.49	10,340.35	10,089.02	9,846.15	9,611.41	9,384.50
128	11,518.18	11,225.24	10,942.43	10,669.37	10,405.66	10,150.95	9,904.88	9,667.11	9,437.32
129	11,598.85	11,301.69	11,014.89	10,738.05	10,470.76	10,212.65	9,963.36	9,722.54	9,489.87
130	11,679.38	11,377.99	11,087.18	10,806.53	10,535.64	10,274.13	10,021.61	9,777.73	9,542.16
131	11,759.78	11,454.12	11,159.28	10,874.81	10,600.31	10,335.37	10,079.61	9,832.66	9,594.18
132	11,840.05	11,530.10	11,231.20	10,942.90	10,664.76	10,396.38	10,137.37	9,887.35	9,645.95
133	11,920.18	11,605.92	11,302.94	11,010.78	10,729.00	10,457.17	10,194.89	9,941.78	9,697.47

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
134	12,000.18	11,681.59	11,374.51	11,078.47	10,793.02	10,517.73	10,252.17	9,995.96	9,748.72
135	12,080.05	11,757.09	11,445.89	11,145.96	10,856.83	10,578.06	10,309.22	10,049.90	9,799.73
136	12,159.78	11,832.44	11,517.10	11,213.25	10,920.43	10,638.16	10,366.03	10,103.59	9,850.47
137	12,239.38	11,907.63	11,588.13	11,280.35	10,983.82	10,698.05	10,422.60	10,157.04	9,900.97
138	12,318.85	11,982.67	11,658.98	11,347.26	11,046.99	10,757.71	10,478.94	10,210.24	9,951.12
139	12,398.19	12,057.55	11,729.66	11,413.97	11,109.96	10,817.14	10,535.04	10,263.20	10,001.21
140	12,477.39	12,132.27	11,800.16	11,480.48	11,172.72	10,876.35	10,590.91	10,315.92	10,050.95
141	12,556.46	12,206.84	11,870.48	11,546.80	11,235.27	10,935.35	10,646.55	10,368.40	10,100.45
142	12,635.41	12,281.26	11,940.63	11,612.93	11,297.61	10,994.12	10,701.96	10,420.64	10,149.70
143	12,714.21	12,355.52	12,010.60	11,678.87	11,359.74	11,052.67	10,757.14	10,472.64	10,198.71
144	12,792.89	12,429.62	12,080.40	11,744.61	11,421.67	11,111.01	10,812.09	10,524.40	10,247.47
145	12,871.44	12,503.57	12,150.03	11,810.17	11,483.39	11,169.12	10,866.81	10,575.93	10,295.99
146	12,949.86	12,577.37	12,219.48	11,875.53	11,544.91	11,227.02	10,921.30	10,627.22	10,344.27
147	13,028.14	12,651.01	12,288.76	11,940.70	11,606.22	11,284.70	10,975.57	10,678.28	10,392.31
148	13,106.30	12,724.50	12,357.86	12,005.69	11,667.33	11,342.17	11,029.61	10,729.11	10,440.11
149	13,184.33	12,797.84	12,426.79	12,070.48	11,728.24	11,399.42	11,083.43	10,779.70	10,487.67
150	13,262.22	12,871.03	12,495.56	12,135.09	11,788.94	11,456.46	11,137.03	10,830.06	10,534.99
151	13,339.94	12,944.06	12,564.15	12,199.51	11,849.44	11,513.28	11,190.40	10,880.19	10,582.08
152	13,417.63	13,016.94	12,632.56	12,263.74	11,909.74	11,569.90	11,243.55	10,930.10	10,628.94
153	13,495.13	13,089.67	12,700.81	12,327.78	11,969.84	11,626.30	11,296.49	10,979.77	10,675.56
154	13,572.51	13,162.25	12,768.89	12,391.64	12,029.74	11,682.49	11,349.20	11,029.22	10,721.95
155	13,649.76	13,234.68	12,836.80	12,455.31	12,089.45	11,738.47	11,401.69	11,078.45	10,768.11
156	13,726.89	13,306.96	12,904.54	12,518.80	12,148.95	11,794.24	11,453.97	11,127.44	10,814.04
157	13,803.88	13,379.08	12,972.11	12,582.10	12,208.25	11,849.80	11,506.02	11,176.22	10,859.74
158	13,880.75	13,451.06	13,039.51	12,645.22	12,267.36	11,905.16	11,557.87	11,224.77	10,905.21
159	13,957.48	13,522.89	13,106.74	12,708.15	12,326.28	11,960.31	11,609.49	11,273.11	10,950.46
160	14,034.09	13,594.56	13,173.81	12,770.90	12,384.99	12,015.25	11,660.91	11,321.22	10,995.48
161	14,110.57	13,666.09	13,240.70	12,833.47	12,443.51	12,069.99	11,712.11	11,369.11	11,040.28
162	14,186.93	13,737.47	13,307.44	12,895.86	12,501.84	12,124.52	11,763.09	11,416.78	11,084.86
163	14,263.16	13,808.71	13,374.00	12,958.07	12,559.97	12,178.85	11,813.87	11,464.24	11,129.21
164	14,339.26	13,879.79	13,440.40	13,020.09	12,617.91	12,232.98	11,864.43	11,511.48	11,173.35
165	14,415.23	13,950.73	13,506.63	13,081.93	12,675.66	12,286.90	11,914.79	11,558.50	11,217.26

166	14,491.08	14,021.51	13,572.70	13,143.60	12,733.22	12,340.63	11,964.93	11,605.31	11,260.95
167	14,566.80	14,092.16	13,638.60	13,205.08	12,790.58	12,394.15	12,014.87	11,651.90	11,304.43
168	14,642.40	14,162.65	13,704.34	13,266.39	12,847.76	12,447.47	12,064.60	11,698.29	11,347.69
169	14,717.87	14,233.00	13,769.92	13,327.52	12,904.74	12,500.59	12,114.13	11,744.46	11,390.74
170	14,793.21	14,303.20	13,835.33	13,388.47	12,961.54	12,553.52	12,163.45	11,790.42	11,433.57
171	14,868.43	14,373.25	13,906.58	13,449.24	13,018.14	12,606.24	12,212.56	11,836.17	11,476.16
172	14,943.53	14,443.16	13,965.66	13,509.84	13,074.56	12,658.77	12,261.47	11,881.71	11,518.60
173	15,018.50	14,512.93	14,030.59	13,570.26	13,130.79	12,711.11	12,310.18	11,927.05	11,560.79
174	15,093.34	14,582.55	14,095.35	13,630.50	13,186.84	12,763.24	12,358.68	11,972.17	11,602.78
175	15,168.06	14,652.02	14,159.95	13,690.57	13,242.69	12,815.19	12,406.99	12,017.09	11,644.56
176	15,242.66	14,721.35	14,224.39	13,750.47	13,298.36	12,866.94	12,455.09	12,061.81	11,686.13
177	15,317.13	14,790.54	14,288.67	13,810.19	13,353.85	12,918.49	12,503.00	12,106.32	11,727.49
178	15,391.48	14,859.58	14,352.79	13,869.73	13,409.15	12,969.85	12,550.70	12,150.63	11,768.65
179	15,465.70	14,928.48	14,416.74	13,929.11	13,464.27	13,021.03	12,598.21	12,194.74	11,809.60
180	15,539.80	14,997.24	14,480.54	13,988.31	13,519.21	13,072.01	12,645.52	12,238.65	11,850.35
181	15,613.78	15,065.85	14,544.18	14,047.34	13,573.96	13,122.79	12,692.63	12,282.35	11,890.89
182	15,687.63	15,134.32	14,607.66	14,106.19	13,628.53	13,173.39	12,739.55	12,325.86	11,931.24
183	15,761.36	15,202.65	14,670.99	14,164.88	13,682.93	13,223.81	12,786.28	12,369.17	11,971.38
184	15,834.97	15,270.83	14,734.15	14,223.39	13,737.13	13,274.03	12,832.81	12,412.28	12,011.32
185	15,908.46	15,338.88	14,797.16	14,281.74	13,791.16	13,324.06	12,879.14	12,455.19	12,051.07
186	15,981.82	15,406.78	14,860.01	14,339.91	13,845.01	13,373.91	12,925.29	12,497.91	12,090.61
187	16,055.06	15,474.54	14,922.70	14,397.92	13,898.69	13,423.57	12,971.24	12,540.43	12,129.96
188	16,128.18	15,542.16	14,985.24	14,455.76	13,952.18	13,473.05	13,017.00	12,582.76	12,169.12
189	16,201.18	15,609.64	15,047.62	14,513.43	14,005.49	13,522.34	13,062.58	12,624.90	12,208.08
190	16,274.06	15,676.98	15,109.84	14,570.93	14,058.63	13,571.45	13,107.96	12,666.84	12,246.84
191	16,346.81	15,744.18	15,171.91	14,628.26	14,111.59	13,620.37	13,153.15	12,708.59	12,285.42
192	16,419.45	15,811.24	15,233.83	14,685.43	14,164.38	13,669.11	13,198.16	12,750.15	12,323.80
193	16,491.96	15,878.16	15,295.59	14,742.43	14,216.99	13,717.67	13,242.98	12,791.53	12,361.99
194	16,564.35	15,944.94	15,357.20	14,799.27	14,269.42	13,766.05	13,287.62	12,832.71	12,399.99
195	16,636.62	16,011.59	15,418.65	14,855.94	14,321.68	13,814.24	13,332.07	12,873.71	12,437.80
196	16,708.78	16,078.09	15,479.95	14,912.44	14,373.77	13,862.26	13,376.33	12,914.51	12,475.42
197	16,780.81	16,144.46	15,541.10	14,968.78	14,425.69	13,910.10	13,420.41	12,955.14	12,512.86
198	16,852.72	16,210.63	15,602.09	15,024.96	14,477.43	13,957.76	13,464.31	12,995.57	12,550.11
199	16,924.51	16,276.77	15,662.93	15,080.97	14,529.00	14,005.24	13,508.03	13,035.83	12,587.17
200	16,996.19	16,342.73	15,723.63	15,136.82	14,580.40	14,052.54	13,551.56	13,075.89	12,624.05

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
201	17,067.74	16,406.54	15,784.17	15,192.51	14,631.62	14,099.66	13,594.92	13,115.78	12,660.75
202	17,139.17	16,474.22	15,844.55	15,248.04	14,682.68	14,146.61	13,638.09	13,155.48	12,697.26
203	17,210.49	16,539.76	15,904.79	15,303.40	14,733.57	14,193.39	13,681.09	13,195.01	12,733.59
204	17,281.69	16,605.17	15,964.88	15,358.61	14,784.29	14,239.99	13,723.91	13,234.35	12,769.74
205	17,352.77	16,670.44	16,024.82	15,413.65	14,834.84	14,286.42	13,766.55	13,273.51	12,805.72
206	17,423.73	16,735.57	16,084.61	15,468.54	14,885.22	14,332.67	13,809.01	13,312.50	12,841.51
207	17,494.57	16,800.57	16,144.25	15,523.26	14,935.44	14,378.75	13,851.29	13,351.30	12,877.12
208	17,565.29	16,865.44	16,203.74	15,577.82	14,985.49	14,424.66	13,893.40	13,389.93	12,912.56
209	17,635.90	16,930.16	16,263.08	15,632.23	15,035.37	14,470.39	13,935.34	13,428.39	12,947.82
210	17,706.39	16,994.76	16,322.27	15,686.48	15,085.08	14,515.96	13,977.10	13,466.66	12,982.91
211	17,776.76	17,059.22	16,381.32	15,740.57	15,134.64	14,561.35	14,018.69	13,504.77	13,017.82
212	17,847.02	17,123.54	16,440.22	15,794.50	15,184.02	14,606.58	14,060.11	13,542.70	13,052.55
213	17,917.15	17,187.74	16,498.97	15,848.28	15,233.24	14,651.63	14,101.35	13,580.45	13,087.12
214	17,987.18	17,215.18	16,557.58	15,901.90	15,282.30	14,696.52	14,142.43	13,618.04	13,121.51
215	18,057.08	17,315.72	16,616.04	15,955.36	15,331.20	14,741.24	14,183.33	13,655.45	13,155.73
216	18,126.87	17,379.51	16,674.35	16,008.67	15,379.93	14,785.79	14,224.06	13,692.69	13,189.78
217	18,196.54	17,443.17	16,732.52	16,061.82	15,428.50	14,830.18	14,264.63	13,729.76	13,223.66
218	18,266.10	17,506.70	16,790.54	16,114.82	15,476.91	14,874.40	14,305.02	13,766.67	13,257.38
219	18,335.54	17,570.10	16,848.42	16,167.66	15,525.16	14,918.46	14,345.25	13,803.40	13,290.92
220	18,404.86	17,633.36	16,906.16	16,220.35	15,573.25	14,962.35	14,385.31	13,839.97	13,324.30
221	18,474.07	17,696.49	16,963.75	16,272.89	15,621.18	15,006.08	14,425.21	13,876.37	13,357.51
222	18,543.17	17,759.49	17,021.20	16,325.28	15,668.95	15,049.64	14,464.93	13,912.60	13,390.56
223	18,612.15	17,822.36	17,078.50	16,377.51	15,716.56	15,093.04	14,504.50	13,948.67	13,423.44
224	18,681.01	17,885.10	17,135.66	16,429.59	15,764.02	15,136.28	14,543.90	13,984.57	13,456.16
225	18,749.76	17,947.71	17,192.68	16,481.52	15,811.31	15,179.36	14,583.14	14,020.31	13,488.72
226	18,818.40	18,010.19	17,249.55	16,533.29	15,858.45	15,222.27	14,622.21	14,055.89	13,521.11
227	18,886.92	18,072.54	17,306.29	16,584.92	15,905.43	15,265.03	14,661.12	14,091.31	13,553.35
228	18,955.33	18,134.76	17,362.88	16,636.40	15,952.26	15,307.63	14,699.87	14,126.56	13,585.42
229	19,023.62	18,196.85	17,419.33	16,687.73	15,998.93	15,350.06	14,738.46	14,161.65	13,617.33
230	19,091.80	18,258.81	17,475.64	16,738.91	16,045.44	15,392.34	14,776.89	14,196.58	13,649.09
231	19,159.87	18,320.64	17,531.81	16,789.93	16,091.81	15,434.46	14,815.16	14,231.36	13,680.68
232	19,227.82	18,382.35	17,587.84	16,840.82	16,138.01	15,476.43	14,853.27	14,265.97	13,712.12

233	19,295.66	18,443.92	17,643.74	16,891.55	16,184.06	15,518.23	14,891.23	14,300.43	13,743.41
234	19,363.39	18,505.37	17,699.49	16,942.13	16,229.96	15,559.88	14,929.02	14,334.73	13,774.53
235	19,431.01	18,566.69	17,755.10	16,992.57	16,275.71	15,601.38	14,966.66	14,368.87	13,805.51
236	19,498.51	18,627.88	17,810.57	17,042.86	16,321.31	15,642.72	15,004.14	14,402.86	13,836.32
237	19,565.90	18,688.94	17,865.91	17,093.01	16,366.75	15,683.90	15,041.47	14,436.69	13,866.99
238	19,633.18	18,749.88	17,921.10	17,143.01	16,412.05	15,724.94	15,078.64	14,470.37	13,897.50
239	19,700.34	18,810.69	17,976.16	17,192.86	16,457.19	15,765.81	15,115.66	14,503.89	13,927.86
240	19,767.40	18,871.38	18,031.09	17,242.57	16,502.18	15,806.54	15,152.53	14,537.26	13,958.07
241	19,834.34	18,931.94	18,085.87	17,292.14	16,547.02	15,847.11	15,189.24	14,570.48	13,988.13
242	19,901.17	18,992.37	18,140.52	17,341.56	16,591.72	15,887.53	15,225.80	14,603.55	14,018.04
243	19,967.89	19,052.68	18,195.03	17,390.83	16,636.26	15,927.80	15,262.20	14,636.46	14,047.80
244	20,034.50	19,112.86	18,249.41	17,439.97	16,680.66	15,967.92	15,298.46	14,669.23	14,077.42
245	20,101.00	19,172.91	18,303.65	17,488.96	16,724.91	16,007.90	15,334.57	14,701.84	14,106.88
246	20,167.39	19,232.84	18,357.76	17,537.81	16,769.02	16,047.72	15,370.52	14,734.31	14,136.20
247	20,233.67	19,292.65	18,411.73	17,586.51	16,812.97	16,087.39	15,406.33	14,766.63	14,165.37
248	20,299.83	19,352.33	18,465.56	17,635.08	16,856.78	16,126.91	15,441.99	14,798.80	14,194.40
249	20,365.89	19,411.89	18,519.26	17,683.50	16,900.45	16,166.29	15,477.50	14,830.83	14,223.28
250	20,431.84	19,471.33	18,572.83	17,731.78	16,943.97	16,205.52	15,512.86	14,862.71	14,252.02
251	20,497.67	19,530.64	18,626.27	17,779.92	16,987.34	16,244.60	15,548.08	14,894.44	14,280.62
252	20,563.40	19,589.83	18,679.57	17,827.93	17,030.58	16,283.54	15,583.15	14,926.03	14,309.08
253	20,629.02	19,648.89	18,732.74	17,875.79	17,073.66	16,322.33	15,618.07	14,957.48	14,337.39
254	20,694.53	19,707.83	18,785.77	17,923.51	17,116.61	16,360.98	15,652.85	14,988.78	14,365.56
255	20,759.93	19,766.65	18,838.67	17,971.09	17,159.41	16,399.48	15,687.49	15,019.94	14,393.59
256	20,825.22	19,825.35	18,891.45	18,018.54	17,202.07	16,437.84	15,721.98	15,050.95	14,421.49
257	20,890.40	19,883.93	18,944.09	18,065.85	17,244.59	16,476.05	15,756.33	15,081.83	14,449.24
258	20,955.48	19,942.38	18,996.59	18,113.02	17,286.96	16,514.12	15,790.53	15,112.56	14,476.85
259	21,020.44	20,000.71	19,048.97	18,160.05	17,329.20	16,552.05	15,824.60	15,143.16	14,504.33
260	21,085.30	20,058.92	19,101.22	18,206.95	17,371.30	16,589.84	15,858.52	15,173.61	14,531.67
261	21,150.05	20,117.01	19,153.34	18,253.71	17,413.25	16,627.49	15,892.30	15,203.92	14,558.88
262	21,214.69	20,174.98	19,205.32	18,300.33	17,455.07	16,664.99	15,925.95	15,234.10	14,585.95
263	21,279.23	20,232.83	19,257.18	18,346.82	17,496.75	16,702.36	15,959.45	15,264.14	14,612.89
264	21,343.65	20,290.56	19,308.91	18,393.17	17,538.28	16,739.59	15,992.81	15,294.04	14,639.69
265	21,407.97	20,348.16	19,360.51	18,439.39	17,579.69	16,776.67	16,026.04	15,323.81	14,666.36
266	21,472.19	20,405.65	19,411.98	18,485.48	17,620.95	16,813.62	16,059.12	15,353.41	14,692.89
267	21,536.29	20,463.02	19,463.32	18,531.43	17,662.08	16,850.43	16,092.07	15,382.93	14,719.29

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
268	21,600.29	20,520.27	19,514.53	18,577.24	17,703.07	16,837.11	16,124.89	15,412.29	14,745.57
269	21,664.19	20,577.40	19,565.62	18,622.93	17,743.92	16,923.64	16,157.56	15,441.52	14,771.71
270	21,727.97	20,634.41	19,616.58	18,668.48	17,734.64	16,960.04	16,190.10	15,470.61	14,797.72
271	21,791.65	20,691.30	19,667.41	18,713.89	17,825.22	16,996.31	16,222.51	15,499.57	14,823.60
272	21,855.23	20,748.03	19,718.11	18,759.18	17,865.67	17,032.43	16,254.78	15,528.40	14,849.36
273	21,918.70	20,804.74	19,768.69	18,804.33	17,905.98	17,068.43	16,286.92	15,557.10	14,874.98
274	21,982.06	20,861.28	19,819.14	18,849.36	17,946.16	17,104.29	16,318.92	15,585.66	14,900.48
275	22,045.32	20,917.70	19,869.47	18,894.25	17,986.21	17,140.01	16,350.80	15,614.10	14,925.85
276	22,108.47	20,974.00	19,919.67	18,939.01	18,026.12	17,175.60	16,382.53	15,642.41	14,951.09
277	22,171.52	21,030.19	19,969.74	18,983.64	18,065.90	17,211.06	16,414.14	15,670.58	14,976.21
278	22,234.46	21,086.26	20,019.70	19,028.14	18,105.55	17,246.39	16,445.62	15,698.63	15,001.21
279	22,297.30	21,142.21	20,069.52	19,072.51	18,145.06	17,281.58	16,476.96	15,726.55	15,026.08
280	22,360.03	21,198.05	20,119.22	19,116.76	18,184.45	17,316.64	16,508.18	15,754.34	15,050.82
281	22,422.66	21,253.77	20,168.80	19,160.87	18,223.70	17,351.58	16,539.27	15,782.01	15,075.44
282	22,485.18	21,309.38	20,218.26	19,204.86	18,262.83	17,386.38	16,570.22	15,809.55	15,099.94
283	22,547.61	21,364.87	20,267.59	19,248.71	18,301.82	17,421.05	16,601.05	15,836.96	15,124.32
284	22,609.92	21,420.24	20,316.80	19,292.44	18,340.69	17,455.59	16,631.75	15,864.25	15,148.58
285	22,672.14	21,475.50	20,365.88	19,336.05	18,379.42	17,490.00	16,662.33	15,891.41	15,172.72
286	22,734.24	21,530.64	20,414.84	19,379.52	18,418.03	17,524.29	16,692.77	15,918.46	15,196.73
287	22,796.25	21,585.67	20,463.68	19,422.87	18,456.51	17,558.44	16,723.10	15,945.37	15,220.63
288	22,858.15	21,640.59	20,512.40	19,466.10	18,494.86	17,592.47	16,753.29	15,972.17	15,244.41
289	22,919.95	21,695.39	20,561.00	19,509.20	18,533.08	17,626.37	16,783.36	15,998.84	15,268.07
290	22,981.65	21,750.03	20,609.48	19,552.17	18,571.17	17,660.15	16,813.30	16,025.39	15,291.61
291	23,043.25	21,804.65	20,657.83	19,595.02	18,609.14	17,693.79	16,843.12	16,051.82	15,315.03
292	23,104.74	21,859.11	20,706.07	19,637.74	18,646.99	17,727.32	16,872.82	16,078.13	15,338.34
293	23,166.13	21,913.46	20,754.18	19,680.34	18,684.71	17,760.71	16,902.39	16,104.31	15,361.53
294	23,227.42	21,967.69	20,802.18	19,722.81	18,722.30	17,793.99	16,931.84	16,130.38	15,384.61
295	23,288.60	22,021.81	20,850.05	19,765.17	18,759.77	17,827.13	16,961.17	16,156.33	15,407.57
296	23,349.69	22,075.82	20,897.81	19,807.39	18,797.11	17,860.16	16,990.38	16,182.17	15,430.42
297	23,410.67	22,129.72	20,945.44	19,849.50	18,834.33	17,893.06	17,019.47	16,207.88	15,453.16
298	23,471.55	22,183.50	20,992.96	19,891.48	18,871.42	17,925.84	17,048.43	16,233.48	15,475.78
299	23,532.33	22,237.18	21,040.36	19,933.34	18,908.39	17,958.49	17,077.27	16,258.96	15,498.28

300	23,593.01	22,290.74	21,087.61	19,975.03	18,945.24	17,991.03	17,106.00	16,284.32	15,520.68
301	23,653.53	22,344.19	21,134.80	20,016.70	18,981.97	18,023.44	17,134.61	16,309.57	15,542.97
302	23,714.06	22,397.53	21,181.85	20,053.20	19,018.57	18,055.73	17,163.09	16,334.70	15,565.14
303	23,774.44	22,450.75	21,228.78	20,099.57	19,055.06	18,087.90	17,191.46	16,359.72	15,587.20
304	23,834.71	22,503.87	21,275.59	20,140.83	19,091.42	18,119.95	17,219.71	16,384.62	15,609.16
305	23,894.39	22,556.88	21,322.28	20,181.97	19,127.66	18,151.88	17,247.85	16,409.41	15,631.00
306	23,954.96	22,609.77	21,368.86	20,222.98	19,163.78	18,183.69	17,275.86	16,434.09	15,652.74
307	24,014.94	22,662.56	21,415.32	20,263.88	19,199.78	18,215.38	17,303.76	16,458.65	15,674.37
308	24,074.81	22,715.24	21,461.67	20,304.66	19,235.66	18,246.96	17,331.55	16,483.11	15,695.89
309	24,134.59	22,767.80	21,507.90	20,345.32	19,271.43	18,278.41	17,359.22	16,507.45	15,717.30
310	24,194.26	22,820.26	21,554.01	20,385.86	19,307.07	18,309.75	17,386.77	16,531.68	15,738.61
311	24,253.84	22,872.61	21,600.01	20,426.28	19,342.59	18,340.97	17,414.22	16,555.80	15,759.81
312	24,313.32	22,924.85	21,645.90	20,466.59	19,378.00	18,372.08	17,441.54	16,579.80	15,780.91
313	24,372.70	22,976.98	21,691.67	20,506.78	19,413.29	18,403.07	17,468.76	16,603.70	15,801.90
314	24,431.98	23,029.00	21,737.33	20,546.85	19,448.46	18,433.94	17,495.86	16,627.50	15,822.78
315	24,491.16	23,080.92	21,782.87	20,586.80	19,483.52	18,464.70	17,522.84	16,651.18	15,843.56
316	24,550.24	23,132.72	21,828.30	20,626.64	19,518.45	18,495.34	17,549.72	16,674.75	15,864.24
317	24,609.23	23,184.42	21,873.61	20,666.36	19,553.28	18,525.87	17,576.49	16,698.22	15,884.82
318	24,668.11	23,236.02	21,918.82	20,705.97	19,587.98	18,556.28	17,603.14	16,721.58	15,905.29
319	24,726.90	23,287.50	21,963.91	20,745.46	19,622.57	18,586.58	17,629.68	16,744.83	15,925.66
320	24,785.59	23,338.88	22,008.88	20,784.84	19,657.05	18,616.77	17,656.11	16,767.98	15,945.93
321	24,844.18	23,390.15	22,053.75	20,824.11	19,691.41	18,646.84	17,682.44	16,791.02	15,966.10
322	24,902.68	23,441.31	22,098.50	20,863.25	19,725.66	18,676.81	17,708.65	16,813.95	15,986.17
323	24,961.08	23,492.37	22,143.15	20,902.29	19,759.79	18,706.66	17,734.76	16,836.79	16,006.14
324	25,019.38	23,543.32	22,187.68	20,941.21	19,793.82	18,736.39	17,760.75	16,859.51	16,026.01
325	25,077.58	23,594.17	22,232.10	20,980.02	19,827.72	18,766.02	17,786.64	16,882.14	16,045.78
326	25,135.69	23,644.91	22,276.41	21,018.71	19,861.52	18,795.54	17,812.42	16,904.66	16,065.45
327	25,193.70	23,695.54	22,320.60	21,057.30	19,895.20	18,824.94	17,838.10	16,927.07	16,085.03
328	25,251.62	23,746.07	22,364.69	21,095.77	19,928.77	18,854.24	17,863.67	16,949.39	16,104.51
329	25,309.43	23,796.49	22,408.67	21,134.13	19,962.23	18,883.43	17,889.13	16,971.60	16,123.89
330	25,367.15	23,846.81	22,452.54	21,172.37	19,995.58	18,912.51	17,914.49	16,993.71	16,143.17
331	25,424.78	23,897.03	22,496.30	21,210.51	20,028.82	18,941.48	17,939.74	17,015.73	16,162.36
332	25,482.31	23,947.14	22,539.95	21,248.53	20,061.94	18,970.34	17,964.88	17,037.64	16,181.45
333	25,539.74	23,997.14	22,583.49	21,286.45	20,094.96	18,999.09	17,989.92	17,059.45	16,200.45
334	25,597.08	24,047.04	22,626.92	21,324.25	20,127.87	19,027.74	18,014.86	17,081.16	16,219.35

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
335	25,654.32	24,096.84	22,670.25	21,361.95	20,160.66	19,056.28	18,039.70	17,102.77	16,238.16
336	25,711.47	24,146.54	22,713.46	21,399.53	20,193.35	19,034.71	18,064.43	17,124.28	16,256.88
337	25,768.52	24,196.13	22,756.57	21,437.01	20,225.93	19,113.03	18,089.06	17,145.70	16,275.50
338	25,825.48	24,245.62	22,799.57	21,474.37	20,253.41	19,141.25	18,113.58	17,167.02	16,294.03
339	25,882.34	24,295.00	22,842.47	21,511.63	20,290.77	19,169.37	18,138.01	17,188.24	16,312.47
340	25,939.11	24,344.29	22,885.25	21,548.78	20,323.03	19,197.38	18,162.33	17,209.36	16,330.82
341	25,995.79	24,393.47	22,927.93	21,585.82	20,355.18	19,225.28	18,186.56	17,230.39	16,349.07
342	26,052.37	24,442.54	22,970.51	21,622.76	20,387.22	19,253.08	18,210.68	17,251.32	16,367.23
343	26,108.85	24,491.52	23,012.97	21,659.58	20,419.15	19,280.78	18,234.70	17,272.16	16,385.31
344	26,165.24	24,540.39	23,055.34	21,696.30	20,450.98	19,308.38	18,258.62	17,292.90	16,403.29
345	26,221.54	24,589.17	23,097.59	21,732.91	20,482.71	19,335.87	18,282.45	17,313.54	16,421.18
346	26,277.74	24,637.84	23,139.74	21,769.42	20,514.33	19,363.25	18,306.17	17,334.10	16,438.99
347	26,333.85	24,686.41	23,181.79	21,805.82	20,545.84	19,390.54	18,329.80	17,354.55	16,456.71
348	26,389.87	24,734.83	23,223.73	21,842.11	20,577.25	19,417.72	18,353.32	17,374.92	16,474.33
249	26,445.79	24,783.24	23,265.57	21,878.30	20,608.56	19,444.80	18,376.75	17,395.19	16,491.88
350	26,501.62	24,831.51	23,307.30	21,914.38	20,639.76	19,471.79	18,400.09	17,415.37	16,509.33
351	26,557.36	24,879.68	23,348.92	21,950.36	20,670.85	19,498.67	18,423.32	17,435.46	16,526.69
352	26,613.01	24,927.75	23,390.45	21,986.24	20,701.85	19,525.44	18,446.46	17,455.45	16,543.97
353	26,668.56	24,975.71	23,431.87	22,022.01	20,732.74	19,552.12	18,469.51	17,475.36	16,561.17
354	26,724.02	25,023.58	23,473.19	22,057.67	20,763.53	19,578.70	18,492.45	17,495.17	16,578.28
355	26,779.39	25,071.35	23,514.40	22,093.23	20,794.21	19,605.18	18,515.31	17,514.90	16,595.30
356	26,834.66	25,119.02	23,555.51	22,128.69	20,824.80	19,631.57	18,538.06	17,534.53	16,612.24
357	26,889.85	25,166.59	23,596.52	22,164.04	20,855.28	19,657.85	18,560.73	17,554.07	16,629.09
358	26,944.94	25,214.06	23,637.43	22,199.30	20,885.66	19,684.03	18,583.20	17,573.53	16,645.87
359	26,999.94	25,261.43	23,678.23	22,234.45	20,915.94	19,710.12	18,605.77	17,592.89	16,662.55
360	27,054.85	25,308.70	23,718.93	22,269.49	20,946.12	19,736.11	18,628.16	17,612.17	16,679.16
361	27,109.66	25,355.88	23,759.53	22,304.44	20,976.20	19,762.00	18,650.45	17,631.36	16,695.68
362	27,164.39	25,402.96	23,800.03	22,339.28	21,006.18	19,787.80	18,672.64	17,650.46	16,712.12
363	27,219.02	25,449.94	23,840.43	22,374.03	21,036.06	19,813.50	18,694.75	17,669.48	16,728.48
364	27,273.57	25,496.82	23,880.73	22,408.67	21,065.84	19,839.10	18,716.76	17,688.41	16,744.75
365	27,328.02	25,543.60	23,920.93	22,443.21	21,095.52	19,864.61	18,738.68	17,707.25	16,760.95



366	27,382.38	25,590.29	23,961.03	22,477.65	21,125.10	19,890.02	18,760.52	17,726.00	16,777.06
361	27,436.66	25,636.88	24,001.02	22,511.99	21,154.59	19,915.34	18,782.26	17,744.67	16,793.10
368	27,490.84	25,683.37	24,040.92	22,546.23	21,183.97	19,940.56	18,803.91	17,763.26	16,809.05
369	27,544.93	25,729.77	24,080.72	22,580.37	21,213.26	19,965.69	18,825.47	17,781.76	16,824.93
370	27,598.93	25,776.07	24,120.42	22,614.41	21,242.46	19,990.73	18,846.94	17,800.17	16,840.72
371	27,652.84	25,822.27	24,160.02	22,648.35	21,271.55	20,015.67	18,868.32	17,818.51	16,856.44
372	27,706.67	25,868.38	24,199.52	22,682.20	21,300.55	20,040.51	18,889.61	17,836.75	16,872.08
373	27,760.40	25,914.39	24,238.92	22,715.94	21,329.45	20,065.27	18,910.82	17,854.92	16,887.64
374	27,814.04	25,960.31	24,278.23	22,749.59	21,358.26	20,089.93	18,931.94	17,873.00	16,903.13
375	27,867.60	26,006.13	24,317.43	22,783.14	21,386.97	20,114.50	18,952.96	17,891.00	16,918.53
376	27,921.06	26,051.85	24,356.54	22,816.59	21,415.58	20,138.98	18,973.91	17,908.92	16,933.86
377	27,974.44	26,097.48	24,395.55	22,849.94	21,444.10	20,163.37	18,994.76	17,926.75	16,949.12
378	28,027.72	26,143.02	24,434.47	22,883.20	21,472.53	20,187.67	19,015.53	17,944.51	16,964.30
379	28,080.92	26,188.46	24,473.28	22,916.36	21,500.86	20,211.87	19,036.21	17,962.18	16,979.40
380	28,134.03	26,233.80	24,512.00	22,949.42	21,529.09	20,235.99	19,056.81	17,979.77	16,994.43
381	28,187.05	26,279.06	24,550.63	22,982.39	21,557.24	20,260.01	19,077.32	17,997.29	17,009.38
382	28,239.99	26,324.21	24,589.15	23,015.26	21,585.28	20,283.95	19,097.75	18,014.72	17,024.26
383	28,292.83	26,369.28	24,627.59	23,048.04	21,613.24	20,307.79	19,118.09	18,032.07	17,039.06
384	28,345.59	26,414.25	24,665.92	23,080.72	21,641.10	20,331.55	19,138.34	18,049.35	17,053.79
385	28,398.26	26,459.13	24,704.16	23,113.31	21,668.87	20,355.22	19,158.52	18,066.54	17,068.45
386	28,450.84	26,503.91	24,742.30	23,145.80	21,696.55	20,378.80	19,178.61	18,083.66	17,083.04
387	28,503.34	26,548.60	24,780.35	23,178.20	21,724.14	20,402.29	19,198.61	18,100.70	17,097.55
388	28,555.74	26,593.20	24,818.31	23,210.50	21,751.63	20,425.69	19,218.54	18,117.66	17,111.99
389	28,608.06	26,637.70	24,856.17	23,242.71	21,779.03	20,449.01	19,238.38	18,134.54	17,126.36
390	28,660.30	26,682.11	24,893.93	23,274.82	21,806.35	20,472.24	19,258.13	18,151.35	17,140.65
391	28,712.44	26,726.43	24,931.60	23,306.85	21,833.57	20,495.38	19,277.81	18,168.08	17,154.88
392	28,764.50	26,770.66	24,969.18	23,338.77	21,860.70	20,518.43	19,297.40	18,184.73	17,169.03
393	28,816.47	26,814.80	25,006.66	23,370.61	21,887.74	20,541.40	19,316.92	18,201.31	17,183.12
394	28,868.36	26,858.84	25,044.05	23,402.35	21,914.69	20,564.29	19,336.35	18,217.81	17,197.13
395	28,920.16	26,902.79	25,081.35	23,434.00	21,941.55	20,587.09	19,355.70	18,234.24	17,211.08
396	28,971.87	26,946.66	25,118.55	23,465.56	21,968.32	20,609.80	19,374.97	18,250.59	17,224.95
397	29,023.50	26,990.43	25,155.66	23,497.03	21,995.01	20,632.43	19,394.16	18,266.86	17,238.76
398	29,075.04	27,034.10	25,192.68	23,528.40	22,021.60	20,654.97	19,413.27	18,283.07	17,252.50
399	29,126.50	27,077.69	25,229.61	23,559.69	22,048.11	20,677.43	19,432.30	18,299.19	17,266.17
400	29,177.87	27,121.19	25,266.44	23,590.88	22,074.53	20,699.81	19,451.26	18,315.25	17,279.77

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
401	29,229.15	27,161.60	25,363.18	23,621.93	22,100.86	20,722.10	19,470.13	18,331.23	17,293.30
402	29,280.35	27,207.91	25,339.83	23,653.00	22,127.10	20,744.31	19,488.93	18,347.14	17,306.77
403	29,331.47	27,251.14	25,376.39	23,683.92	22,153.26	20,766.43	19,507.65	18,362.98	17,320.17
404	29,382.50	27,294.28	25,412.86	23,714.75	22,179.33	20,788.48	19,526.29	18,378.74	17,333.50
405	29,433.44	27,337.32	25,449.24	23,745.49	22,205.31	20,810.44	19,544.85	18,394.43	17,346.76
406	29,484.30	27,380.28	25,485.52	23,776.15	22,231.20	20,832.32	19,563.34	18,410.05	17,359.96
407	29,535.07	27,423.15	25,521.72	23,806.71	22,257.01	20,854.11	19,581.75	18,425.60	17,373.10
408	29,585.76	27,465.93	25,557.83	23,837.18	22,282.74	20,875.83	19,600.08	18,441.08	17,386.17
409	29,636.37	27,508.62	25,593.84	23,867.51	22,308.38	20,897.46	19,618.33	18,456.49	17,399.17
410	29,686.89	27,551.22	25,629.77	23,897.87	22,333.93	20,919.02	19,636.52	18,471.83	17,412.11
411	29,737.33	27,593.74	25,665.60	23,928.08	22,359.40	20,940.49	19,654.62	18,487.09	17,424.99
412	29,787.68	27,636.16	25,701.35	23,958.20	22,384.78	20,961.88	19,672.65	18,502.29	17,437.80
413	29,837.95	27,678.50	25,737.01	23,988.23	22,410.08	20,983.20	19,690.61	18,517.42	17,450.54
414	29,888.14	27,720.74	25,772.58	24,018.18	22,435.30	21,004.43	19,708.49	18,532.48	17,463.21
415	29,938.24	27,762.91	25,808.06	24,048.04	22,460.43	21,025.58	19,726.30	18,547.47	17,475.85
416	29,988.26	27,804.98	25,843.45	24,077.81	22,485.48	21,046.66	19,744.03	18,562.39	17,488.41
417	30,038.20	27,846.96	25,878.75	24,107.50	22,510.44	21,067.66	19,761.69	18,577.25	17,500.90
418	30,088.05	27,888.86	25,913.96	24,137.10	22,535.33	21,088.57	19,779.28	18,592.03	17,513.34
419	30,137.82	27,930.67	25,949.09	24,165.61	22,560.13	21,109.41	19,796.79	18,606.75	17,525.71
420	30,187.51	27,972.40	25,984.13	24,196.04	22,584.84	21,130.18	19,814.23	18,621.40	17,538.01
421	30,237.12	28,014.03	26,019.08	24,225.39	22,609.48	21,150.86	19,831.60	18,635.99	17,550.27
422	30,286.64	28,055.59	26,053.95	24,254.64	22,634.03	21,171.47	19,848.89	18,650.51	17,562.47
423	30,336.08	28,097.05	26,088.73	24,283.82	22,658.50	21,192.00	19,866.12	18,664.96	17,574.58
424	30,385.44	28,138.43	26,123.42	24,312.90	22,682.89	21,212.45	19,883.27	18,679.35	17,586.65
425	30,434.71	28,179.72	26,158.02	24,341.91	22,707.20	21,232.83	19,900.35	18,693.67	17,598.68
426	30,483.90	28,220.93	26,192.54	24,370.82	22,731.43	21,253.13	19,917.36	18,707.92	17,610.60
427	30,533.02	28,262.05	26,226.97	24,399.66	22,755.58	21,273.35	19,934.30	18,722.11	17,622.49
428	30,582.05	28,303.03	26,261.32	24,428.41	22,779.65	21,293.50	19,951.18	18,736.24	17,634.32
429	30,630.99	28,344.03	26,295.58	24,457.08	22,803.63	21,313.58	19,967.98	18,750.30	17,646.09
430	30,679.86	28,384.90	26,329.76	24,485.66	22,827.54	21,333.57	19,984.71	18,764.30	17,657.80
431	30,728.65	28,425.68	26,363.85	24,514.16	22,851.37	21,353.50	20,001.37	18,778.23	17,669.45

432	30,777.35	28,466.37	26,397.85	24,542.58	22,875.12	21,373.35	20,017.96	18,792.10	17,681.05
433	30,825.97	28,506.98	26,431.77	24,570.91	22,898.79	21,393.12	20,034.48	18,805.91	17,692.58
434	30,874.52	28,547.51	26,465.61	24,599.16	22,922.38	21,412.83	20,050.94	18,819.65	17,704.06
435	30,922.98	28,587.95	26,499.36	24,627.33	22,945.90	21,432.45	20,067.32	18,833.33	17,715.48
436	30,971.36	28,628.31	26,533.03	24,655.42	22,969.33	21,452.01	20,083.64	18,846.95	17,726.85
437	31,019.66	28,668.58	26,566.61	24,683.43	22,992.69	21,471.49	20,099.89	18,860.50	17,738.16
438	31,067.88	28,708.77	26,600.11	24,711.35	23,015.97	21,490.90	20,116.07	18,874.00	17,749.41
439	31,116.02	28,748.88	26,633.53	24,739.20	23,039.17	21,510.24	20,132.19	18,887.43	17,760.61
440	31,164.03	28,788.90	26,666.66	24,766.96	23,062.30	21,529.50	20,148.24	18,900.80	17,771.75
441	31,212.06	28,828.84	26,700.11	24,794.64	23,085.35	21,548.69	20,164.22	18,914.11	17,782.84
442	31,259.96	28,868.70	26,733.23	24,822.25	23,108.32	21,567.81	20,180.14	18,927.36	17,793.87
443	31,307.73	28,908.47	26,766.36	24,849.77	23,131.22	21,586.86	20,195.99	18,940.55	17,804.84
444	31,355.52	28,948.16	26,799.36	24,877.21	23,154.04	21,605.84	20,211.77	18,953.68	17,815.76
445	31,403.13	28,987.77	26,832.28	24,904.57	23,176.78	21,624.75	20,227.49	18,966.75	17,826.63
446	31,450.76	29,027.30	26,865.12	24,931.85	23,199.45	21,643.59	20,243.14	18,979.76	17,837.44
447	31,498.27	29,066.74	26,897.88	24,959.05	23,222.04	21,662.35	20,258.73	18,992.71	17,848.20
448	31,545.69	29,106.11	26,930.55	24,986.18	23,244.56	21,681.05	20,274.26	19,005.60	17,858.91
449	31,593.04	29,145.39	26,963.14	25,013.22	23,267.00	21,699.67	20,289.72	19,018.43	17,869.56
450	31,640.30	29,184.58	26,995.65	25,040.19	23,289.37	21,718.23	20,305.11	19,031.20	17,880.16
451	31,687.49	29,223.70	27,028.08	25,067.09	23,311.67	21,736.72	20,320.44	19,043.92	17,890.71
452	31,734.60	29,262.74	27,060.43	25,093.89	23,333.89	21,755.14	20,335.71	19,056.58	17,901.20
453	31,781.63	29,301.69	27,092.70	25,120.62	23,356.03	21,773.49	20,350.91	19,069.18	17,911.64
454	31,828.58	29,340.57	27,124.89	25,147.27	23,378.11	21,791.77	20,366.06	19,081.72	17,922.03
455	31,875.46	29,379.36	27,156.99	25,173.85	23,400.11	21,809.98	20,381.13	19,094.20	17,932.37
456	31,922.25	29,418.07	27,189.02	25,200.35	23,422.03	21,828.12	20,396.15	19,106.63	17,942.66
457	31,968.97	29,456.70	27,220.97	25,226.77	23,443.89	21,846.20	20,411.10	19,119.00	17,952.89
458	32,015.61	29,495.26	27,252.84	25,253.11	23,465.67	21,864.21	20,426.00	19,131.32	17,963.08
459	32,062.17	29,533.73	27,284.63	25,279.38	23,487.38	21,882.15	20,440.83	19,143.58	17,973.21
460	32,108.66	29,572.12	27,316.33	25,305.57	23,509.01	21,900.03	20,455.59	19,155.78	17,983.29
461	32,155.07	29,610.43	27,347.97	25,331.69	23,530.58	21,917.83	20,470.30	19,167.93	17,993.33
462	32,201.40	29,648.66	27,379.52	25,357.73	23,552.07	21,935.58	20,484.95	19,180.02	18,003.31
463	32,247.65	29,686.81	27,410.99	25,383.69	23,573.49	21,953.25	20,499.53	19,192.05	18,013.24
464	32,293.83	29,724.84	27,442.33	25,409.58	23,594.84	21,970.86	20,514.06	19,204.04	18,023.13
465	32,339.93	29,762.88	27,473.70	25,435.40	23,616.12	21,988.40	20,528.52	19,215.96	18,032.96

ANNUITY TABLE, Continued

Month	2%	2½%	3%	3½%	4%	4½%	5%	5½%	6%
466	32,385.95	29,800.80	27,504.94	25,461.13	23,637.33	22,005.88	20,542.93	19,227.83	18,042.75
467	32,431.90	29,838.63	27,536.10	25,486.80	23,658.47	22,023.29	20,557.27	19,239.65	18,052.49
468	32,477.77	29,876.39	27,567.18	25,512.39	23,679.54	22,040.64	20,571.56	19,251.42	18,062.18
469	32,523.56	29,914.07	27,598.18	25,537.90	23,700.54	22,057.93	20,585.78	19,263.13	18,071.82
470	32,569.28	29,951.67	27,629.11	25,563.34	23,721.46	22,075.14	20,599.95	19,274.78	18,081.41
471	32,614.92	29,989.19	27,659.96	25,588.71	23,742.32	22,092.30	20,614.06	19,286.39	18,090.96
472	32,660.49	30,026.64	27,690.73	25,614.00	23,763.11	22,109.39	20,628.11	19,297.94	18,100.45
473	32,705.98	30,064.00	27,721.43	25,639.22	23,783.83	22,126.41	20,642.10	19,309.44	18,109.90
474	32,751.39	30,101.29	27,752.05	25,664.37	23,804.48	22,143.38	20,656.03	19,320.88	18,119.31
475	32,796.73	30,138.50	27,782.59	25,689.44	23,825.07	22,160.27	20,669.91	19,332.28	18,128.66
476	32,842.00	30,175.64	27,813.06	25,714.44	23,845.58	22,177.11	20,683.72	19,343.62	18,137.97
477	32,887.18	30,212.69	27,843.45	25,739.36	23,866.03	22,193.88	20,697.48	19,354.91	18,147.24
478	32,932.30	30,249.67	27,873.77	25,764.22	23,886.41	22,210.59	20,711.19	19,366.15	18,156.46
479	32,977.34	30,286.58	27,904.01	25,789.00	23,906.72	22,227.24	20,724.83	19,377.34	18,165.63
480	33,022.30	30,323.40	27,934.17	25,813.71	23,926.96	22,243.83	20,738.42	19,388.47	18,174.75

**OFFICIALS OF THE STATE OF ALABAMA — 1989**

Address all State Officials, Montgomery, Alabama 36130,  
unless otherwise noted

GUY HUNT, Governor

<i>Lieutenant Governor</i> .....	261-7900
James E. Folsom, Jr.	
<i>Attorney General</i> .....	261-7400
Don Siegelman	
<i>Secretary of State</i> .....	261-7200
Perry A. Hand	
<i>State Auditor</i> .....	261-7010
Jan Cook	
<i>State Treasurer</i> .....	261-7500
George Wallace, Jr.	
<i>Superintendent of Education</i> .....	261-5156
Dr. Wayne Teague	
<i>Commissioner of Agriculture and Industries</i> .....	261-2650
Albert McDonald	
<i>State Board of Education</i> .....	261-5335
1st District .....	John M. Tyson, Jr.
2nd District .....	Steadman Shealy, Jr.
3rd District .....	Isabelle Thomasson
4th District .....	Ethel Hall
5th District .....	Willie J. Paul
6th District .....	Spencer Bachus
7th District .....	Victor P. Poole
8th District .....	Dr. Evelyn Pratt
<i>Adjustment, State Board of</i>	
Perry A. Hand .....	<i>Secretary of State</i>
Jan Cook .....	<i>State Auditor</i>
George Wallace, Jr. ....	<i>State Treasurer</i>
Robin Swift .....	<i>Director of Finance</i>
<i>Adjutant General</i> .....	271-7200
Major General Ivan F. Smith	
<i>Aging, Commission on</i> .....	261-5743
Oscar Tucker .....	<i>Executive Director</i>
<i>Agriculture and Industries, State Dept. of</i> .....	261-2650
Albert McDonald .....	<i>Commissioner</i>
Dr. J. Lee Alley .....	<i>Acting Assistant Commissioner</i>

Charles H. Barnes .....	<i>General Counsel</i>
Robert D. Williams, Jr. ....	<i>Chief Accountant</i>
Don Stagg .....	<i>Chief Div., Gins and Warehouses, and Weights and Measures</i>
Robert G. Dekle .....	<i>Dir. Petroleum Commodities</i>
Dr. John A. Bloch .....	<i>Director — Div. of Plant Plant Industry and Agriculture Chemistry</i>
Pyron Keener .....	<i>Chief Director Poultry Inspection</i>
Gurnia Moore .....	<i>Chief Seed Analyst</i>
Tom Stephenson .....	<i>Acting Chief Shipping Point Inspection</i>
Dr. J. Lee Alley .....	<i>Director, Animal Industry Division</i>
Dr. J. Lee Alley .....	<i>State Veterinarian</i>
T. O. Smith .....	<i>General Services Div.</i>
David Gonsoulin .....	<i>Chief Livestock Market News Div.</i>
Jewel T. Barr .....	<i>Chief Statistical Div.</i>
Edward Spencer .....	<i>Assistant — Agricultural Chemistry Lab, Montgomery</i>
John Dewey Jinks .....	<i>Dr. Chemical Lab, Auburn</i>
Patrick Morgan .....	<i>Dir. Pesticide Lab, Auburn</i>
Felix Welch .....	<i>Marketing Division</i>
<i>Agricultural Center Board</i> .....	261-5597
L. T. Farris .....	<i>Coliseum Manager</i>
C. Ed Wesson .....	<i>Assistant Manager</i>
<i>Aeronautics, Alabama Department of</i> .....	261-4480
Arthur Jones .....	<i>Director</i>
<i>Alabama Development Office</i> .....	263-0048
Jack Hammontree .....	<i>Director</i>
<i>Alcoholic Beverage Control Board, Alabama</i> .....	271-3840
Frank Buckner .....	<i>Chairman, Florence</i>
<i>Board Members:</i>	
Audrey Wright .....	<i>Montgomery</i>
Don Martin .....	<i>Montgomery</i>
Spencer Bachus .....	<i>Legal Counsel for Board</i>
Tandy Little .....	<i>Administrator</i>
<i>Architects, State Board for Registration of</i> .....	261-4179
1115 So. Court St., Montgomery, AL 36104	
Jim H. Seay .....	<i>Secretary</i>
<i>Archives and History, Department of</i> .....	261-4361
Dr. Edwin C. Bridges .....	<i>Director</i>
<i>Arts and Humanities, Council on the</i> .....	261-4076
Albert Head .....	<i>Director</i>
<i>Athletic Assn., Alabama</i> .....	261-5655
Herman L. (Bubba) Scott .....	<i>Executive Director</i>

<i>Auctioneers, Board of</i> .....	739-0548
209 Downtown Plaza, Cullman, Al. 35055	
Mrs. Patricia Reed .....	<i>Executive Secretary</i>
<i>Bar Association, Alabama State</i> .....	269-1515
Reginald T. Hamner .....	<i>Executive Director</i>
415 Dexter Ave., Montgomery, AL 36104	
<i>Banking, State Department of</i> .....	261-3452
Zack Thompson .....	<i>Superintendent of Banks</i>
David Jones .....	<i>Asst. Supt. of Banks</i>
<i>Budget Officer</i> .....	261-3117
Lamar Harris	
<i>Building Commissioner, State</i> .....	261-4082
Philip A. Sharpe .....	<i>Acting Director</i>
<i>Buildings, State</i> .....	
Administrative Building .....	H. A. Brooks, <i>Custodian</i>
Archives and History Building .....	Edward Ross, <i>Custodian</i>
Capitol Building .....	Norman V. Anderson, <i>Custodian</i>
Highway Building .....	James P. Howard, <i>Custodian</i>
Industrial Relations Building .....	E. J. Kelley, <i>Custodian</i>
Judicial Building .....	Ellis Moore, <i>Custodian</i>
Public Safety Building .....	Basil D. Kelley, <i>Custodian</i>
State Office Building .....	Floyd G. Moseley, <i>Custodian</i>
<i>Chiropractic Examiners, State Board of</i> .....	947-5838
Douglas K. Cooper .....	<i>Executive Secretary</i>
P. O. Box 925, Robertsdale, Al. 36567	
<i>Comptroller, State</i> .....	261-7050
Robert Childree .....	
<i>Conservation and Natural Resources, Dept. of</i> .....	261-3486
James D. Martin .....	<i>Commissioner</i>
Corky Pugh .....	<i>Assistant Commissioner</i>
Charles D. Kelley .....	<i>Director, Div. of Game and Fish</i>
James Griggs .....	<i>Director, Div. of State Lands</i>
William B. Garner .....	<i>Director, Div. of Marine Police</i>
Hugh Swingle .....	<i>Director, Div. of Marine Resources</i>
Gary Leach .....	<i>Director, Parks Div.</i>
Curtis Parrish .....	<i>Accounting</i>
<i>Consumer Protection, Department of</i> .....	261-7334
Fincher Allen .....	<i>Director</i>
<i>Contracts, State Licensing Board of General</i> .....	261-2839
Mrs. Sarah Crumpton .....	<i>Executive Secretary</i>
<i>Corrections, Board of</i> .....	834-1227
Morris L. Thigpen, Sr. ....	<i>Commissioner</i>

<i>Cosmetology, State Board of</i> .....	261-5613
Faye Longcrier .....	<i>Executive Secretary</i>
<i>Courts, Administrative Office of</i> .....	834-7990
Allen Tapley .....	<i>Administrative Director of Courts</i>
<i>Dental Examiners, Board of</i> .....	533-4638
Allen Koslin .....	<i>Secretary-Treasurer</i>
2308 B Starmount Cir., Huntsville, AL 35801	
Diane Pool .....	<i>Administrative Secretary</i>
<i>Docks Department, State</i> .....	690-6112
John B. Dutton .....	<i>Director</i>
P. O. Box 1588, Mobile, Al. 36633	
<i>Economic and Community Affairs,</i>	
Alabama Department of .....	284-8700
Fred O. Braswell, III .....	<i>Director</i>
<i>Education, State Department of</i> .....	261-5156
Dr. Wayne Teague .....	<i>Superintendent of Education</i>
Dr. W. E. Mellown, Jr. ....	<i>Deputy State Supt.</i>
Dr. C. C. Baker .....	<i>Assistant Superintendent</i>
	<i>for Professional Services</i>
Bill Rutherford .....	<i>Assistant Supt. of Admin. and</i>
	<i>Financial Services</i>
Dr. Maurice Persall .....	<i>Assistant State Supt.</i>
	<i>for Gen. Administrative Services</i>
Dr. W. C. Berryman .....	<i>Director of Federal Adm. Services</i>
Dr. Steve Franks .....	<i>Director, Voc. Education</i>
Lamona Lucas .....	<i>Director, Rehabilitation and</i>
	<i>Crippled Children</i>
Walt Chambers .....	<i>Business Manager</i>
N. J. Kitchens .....	<i>State Agency for Federal</i>
	<i>Property Assistance</i>
P. O. Box 1100, Gadsden, Al. 35902	
Dr. Ken Wilson .....	<i>Legislative Relations</i>
Dr. Albert McCoy .....	<i>Director, Division of Disability</i>
	<i>Determination Services</i>
Dr. Martha Barton .....	<i>Director, Student Instructional</i>
	<i>Services</i>
Richard Meadows .....	<i>Director, Office of General Counsel</i>
<i>Emergency Management Agency, Alabama</i> .....	261-3318
J. Danny Turner .....	<i>Director</i>
<i>Employees' Retirement System of Alabama</i> .....	832-4140
David G. Bronner .....	<i>Secretary-Treasurer</i>



<i>Engineers and Land Surveyors, State Board of</i>	
<i>Registration for Professional</i> .....	261-5568
Sarah E. Hines .....	<i>Executive Secretary</i>
<i>Entomologists, Horticulturists, Floriculturists and</i>	
<i>Tree Surgeons, Board to Examine</i> .....	832-3753
Albert McDonald .....	<i>Chairman</i>
<i>Environmental Management, Alabama Dept. of</i> .....	271-7700
Leigh Pegues .....	<i>Director</i>
<i>Ethics Commission</i> .....	261-2997
Melvin G. Cooper .....	<i>Director</i>
<i>Examiner of Public Accounts, Dept. of</i> .....	261-2513
Ronald L. Jones .....	<i>Chief Examiner</i>
<i>Executive Department, Governor's Office</i> .....	261-7100
Guy Hunt .....	<i>Governor</i>
Holman Head .....	<i>Executive Assistant</i>
Bill Wasden .....	<i>Legal Advisor</i>
Terry Abbott .....	<i>Press Secretary</i>
Jody Smith .....	<i>Recording Secretary</i>
<i>Farmers' Market Authority</i> .....	261-2618
William M. Arrington .....	<i>Administrator</i>
<i>Finance Department</i> .....	261-7160
Robin Swift .....	<i>Director</i>
Jimmy Rowell .....	<i>Assistant Director</i>
Kent Rose .....	<i>Purchasing Agent</i>
Robert Childree .....	<i>State Comptroller</i>
Charles C. Rowe .....	<i>Budget Officer</i>
Jerry Carpenter .....	<i>Legal Counsel</i>
Don Drablos .....	<i>Chief, Division of Service</i>
Ben Spillers .....	<i>Risk Manager, Insurance Fund</i>
Rod Benton .....	<i>Acting Director, Data Systems</i>
	<i>Management Division</i>
Mickey McGee .....	<i>Director of Space Management</i>
	<i>and Personnel</i>
John Brooks .....	<i>Printing and Publication Division</i>
<i>Forensic Sciences, Dept. of</i> .....	887-7001
Carlos L. Rabren .....	<i>Director</i>
	P. O. Box 231, Auburn, Al. 36830
<i>Forestry Commission, Alabama</i> .....	240-9304
Cecil W. Moody .....	<i>State Forester</i>

<i>Foresters, State Board of Registration For</i> .....	240-9368
Robert M. Nonnemacher .....	<i>Chairman</i>
Frank E. Jones .....	<i>Secretary</i>
Pamela B. Sears .....	<i>Office Manager</i>
<i>Funeral Services, Board of</i> .....	261-4049
Warren Higgins .....	<i>Executive Secretary</i>
<i>Geological Survey of Alabama</i> .....	349-2852
Dr. Ernest Mancini .....	<i>State Geologist</i>
P. O. Box O, Tuscaloosa, AL 35486-9780	
<i>Health, Department of Public</i>	
C. Earl Fox, M.D., M.P.H. ....	<i>State Health Officer</i>
	261-5052
Tom White .....	<i>Director, Div. of Finance</i>
	261-5338
Cecil McCall .....	<i>Director, Internal Audit</i>
	261-5304
John R. Wible .....	<i>Legal Counsel, Legal Division</i>
	261-5105
Ronald E. Goertz .....	<i>Director, Personnel</i>
	<i>and Training Services</i>
	261-5047
William D. Brooks .....	<i>Programs Integrity Officer,</i>
	<i>Personnel and Training Services</i>
	261-5047
H. E. Harrison .....	<i>Director of Capital Expansion</i>
	261-5081
William Callan .....	<i>Director</i>
	<i>Clinical Laboratory Administration</i>
	277-8660
University Drive	
Conan Davis .....	<i>Director, Bureau of</i>
	<i>Dental Health</i>
	261-5657
434 Monroe Street	
James W. Cooper .....	<i>Director, Environmental</i>
	<i>and Facility Standards Administration</i>
	261-5004
Charles Woernle .....	<i>State Epidemiologist &amp; Director</i>
	<i>Bureau of Epidemiology and Consultation</i>
	261-5131
Doris Barnette .....	<i>Acting Director, Family</i>
	<i>Health Administration</i>
	261-5673
434 Monroe Street	

O'Neal Green .....	<i>Acting Director, Bureau of Licensure and Certification</i>	261-5116
Gail Holloway .....	<i>Director, Bureau of Preventive Health Services</i>	261-5016
Ruth Harrell .....	<i>Director, Bureau of Public Health Nursing</i>	261-5108
434 Monroe Street		
<i>Health Planning and Development Agency, State</i> .....		261-4107
Charlie Stewart .....	<i>Acting Executive Director</i>	
<i>Highway Department, State</i> .....		261-6311
Royce King .....	<i>Director</i>	
<i>Highway Traffic Safety, Law Enforcement Planning</i> .....		261-5897
Charles E. Swindall .....	<i>Chief</i>	
<i>Industrial Relations, Department of</i> .....		261-5420
John G. Allen .....	<i>Director</i>	
Clifford DePriest .....	<i>Unemployment Compensation Division Employment Service Administrator</i>	
James Cogdell .....	<i>Deputy State Programs Administrator</i>	
Tom J. Ventress .....	<i>State Programs Administrator</i>	
Douglas Dyer .....	<i>Chief, Research and Statistics</i>	
Otto P. Hammonds .....	<i>Director, Human Resources Division</i>	
Mark Davis .....	<i>State Workmen's Compensation Administrator</i>	
Byron Abrams .....	<i>Chief, Business Management Division</i>	
Frank Willett .....	<i>Chief, Planning and Systems Analysis Division</i>	
George Cocoris .....	<i>General Counsel</i>	
Grady Simpson .....	<i>Chief, Special Investigations Division</i>	
Tony Piel .....	<i>Manager, Data Processing Division</i>	
<i>Insurance, State Department of</i> .....		269-3550
John S. Greeno .....	<i>Commissioner</i>	
Paul Raadt .....	<i>Chief Examiner Chief of Receivership</i>	
<i>Labor, Department of</i> .....		261-3460
Robin Roland Rea .....	<i>Commissioner</i>	
<i>Legislative Fiscal Office</i> .....		261-7950
William Newton .....	<i>Director</i>	

<i>Legislative Reference Service</i> .....	261-3023
Louis G. Greene .....	Director
<i>Liquefied Petroleum Gas Board, Alabama</i> .....	261-5649
Leonard Pakruda .....	Administrator
<i>Medical Examiners, State Board of</i> .....	261-4116
W. Earl Riley, M.D. ....	Chairman
<i>Medical Services Administration</i> .....	277-2710
Fay Baggiano .....	Commissioner
<i>Mental Health, State Department of</i> .....	271-9207
James W. McFarland .....	Mental Health Receiver/Acting Commissioner
Don V. Schofield .....	Director, Greil
Charles Fetner .....	Director, Bryce Hospital
John T. Bartlett .....	Director, Searcy Hospital
James Pouncey .....	Associate Commissioner for Mental Illness
Larry Latham .....	Associate Commissioner for Mental Retardation
<i>Military Department</i> .....	271-7200
Ivan F. Smith .....	Adjutant General
<i>Nursing, Board of</i> .....	261-4060
Shirley Dykes .....	Executive Officer
<i>Optometry, State Board of</i> .....	687-2545
Dr. Willard Smith .....	Secretary Treasurer
P. O. Box 286, Eufaula, Al. 36027	
<i>Oil and Gas Board, State</i> .....	349-2852
Ernest Mancini .....	Supervisor
P. O. Drawer O, University of Alabama	35486
<i>Pardons and Paroles, State Board of</i> .....	261-5533
Warren Gaston .....	Executive Director
<i>Peace Officers, Standards and Training Commission</i> .....	261-4047
James Jackson .....	Executive Secretary
<i>Human Resources, State Dept. of</i> .....	261-3190
Andrew P. Hornsby, Jr. ....	Commissioner
Nancy Jinwright .....	Deputy Commissioner
<i>Personnel Department</i> .....	261-3389
Halycon Ballard .....	Director
<i>Pharmacy, Alabama Board of</i> .....	252-8976
J. W. McLane .....	Secretary

<i>Physical Fitness, Commission on</i> .....	261-4496
Daniel Long .....	<i>Executive Director</i>
<i>Physical Therapy, State Board</i> .....	261-4064
John C. Badenhop .....	<i>Chairman</i>
Suite 220, 777 South Lawrence Street	
Montgomery, Al. 36104	
Kathryn Brown .....	<i>Executive Director</i>
<i>Pilotage Commission, State</i> .....	
E. Roberts Leatherbury .....	<i>Chairman</i>
P. O. Box 2188	
Mobile, Al. 36601	
<i>Psychology, State Board of Examiners</i> .....	939-9193
Arnold Mindingall .....	<i>Chairman</i>
1600 7th Ave. S., Suite 054	
Birmingham, Al. 35233	
<i>Public Accountancy, State Board</i> .....	834-7650
Boyd Nicholson .....	<i>Executive Secretary</i>
1103 S. Perry Street	
Montgomery, Al. 36104	
<i>Public Library Service, Alabama</i> .....	277-7330
Blane Dessy .....	<i>Director</i>
<i>Public Safety, Department</i> .....	261-4371
Thomas H. Wells .....	<i>Director</i>
N. W. McHenry .....	<i>Chief, Patrol Division</i>
H. J. Hammond .....	<i>Drivers License Div. &amp; Safety</i>
	<i>Responsibility Unit</i>
G. L. McGriff .....	<i>Head Administrative Div.</i>
Jerry Shoemaker .....	<i>Chief, Bureau of Investigation &amp;</i>
	<i>Identification</i>
<i>Public Service Commission Alabama</i> .....	261-5209
Jim Sullivan .....	<i>President</i>
Charles Martin .....	<i>Associate Commissioner, No. 2</i>
Wallace Tidmore .....	<i>Secretary</i>
Lynn Greer .....	<i>Associate Commissioner, No. 1</i>
<i>Tourism and Travel, State Bureau of</i> .....	261-4169
Lisa Walsh Shivers .....	<i>Director</i>
<i>Purchasing Agent, State</i> .....	261-3128
Kent Rose .....	
<i>Real Estate Commission</i> .....	261-5544
Mrs. Mary Goodwin .....	<i>Director</i>

<i>Revenue, Department of</i> .....	261-3362
James M. Sizemore .....	Commissioner
Whit Guerin .....	Assistant Commissioner
Lewis A. Easterly .....	Secretary & Director of Administrative Services
James H. Walley .....	Chief, Special Investigations Division
Bill Thompson .....	Chief Administrative Law Judge
B. Frank Loeb .....	Chief Counsel, Legal Division
V. S. McElvy .....	Director of Operations
Kenneth Green .....	Chief, Ad Valorem Tax Division
Robert Brashears .....	Chief, Collections Division
Ernest J. Broadhead .....	Chief, Franchise Tax Division
George Mingledorff .....	Chief, Income Tax Division
Dwight Pridgen .....	Chief, Miscellaneous Tax Division
Robert B. McCain .....	Chief, Motor Vehicle Division
Horace Hitt .....	Chief, Sales & Use Tax Division
Rebecca B. Wells .....	Chief, Budget & Administrative Management Div.
Jan H. Schultz .....	Chief, Information Services Division
John H. Mann .....	Chief, Research & Information Division
<i>Securities Commission, State</i> .....	261-2984
Robert Prince .....	Acting Director
<i>Social Security, State Agency</i> .....	261-3037
Robert Childree .....	Director
<i>Soil and Water Conservation Committee, State</i> .....	261-2620
James J. Plaster .....	Executive Secretary
<i>Teachers' Retirement System of Alabama</i> .....	832-4140
David G. Bronner .....	Secretary-Treasurer
<i>Television Commission, Alabama Educational</i> .....	328-8756
Skip Hinton .....	General Manager
2101 Magnolia Ave., Birmingham, Al.	35256
<i>Trooper, State (See Public Safety)</i>	
<i>Unemployment Compensation Division (See Department of Industrial Relations)</i>	
<i>Veterans Affairs, State Department of</i> .....	261-5077
Frank D. Wilkes .....	Director
<i>Veterinary Medical Examiners, Ala. State Board</i> .....	353-2435
Dr. Ray Ashwander .....	Secretary-Treasurer
Decatur, Al.	
<i>Water Improvement Commission</i> .....	271-7700
Leigh Pegues .....	Director

<i>White House Association, The</i> .....	
First White House of the Confederacy .....	261-4624
Mrs. John H. Napier, III .....	<i>Regent</i>

<i>Women's Commission, Ala.</i> .....	
Margaret D. Sizemore .....	
9 Office Park Circle, Room 106	
Birmingham, Al. 35223	

## SUPREME COURT OF ALABAMA

P. O. Box 218  
Montgomery, Alabama 36101

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<i>Chief Justice Of</i>	
The Honorable Alva Hugh Maddox .....	261-4593
<i>Associate Justice</i>	
The Honorable Gorman Houston .....	261-4353
<i>Associate Justice</i>	
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<i>Associate Justice</i>	(Birmingham) 870-1031
The Honorable Janie L. Shores .....	261-4619
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<i>Associate Justice</i>	(Birmingham) 870-1031
The Honorable Reneau P. Almon .....	261-4597
<i>Associate Justice</i>	

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817 South Court Street  
Montgomery, Al. 36130

Alan L. Tapley, <i>Administrative Director</i> .....	834-7990
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## ALABAMA COURT OF CRIMINAL APPEALS

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Montgomery, Al. 36101

The Honorable Hubert Taylor .....	261-4619
<i>Presiding Judge</i>	
The Honorable John C. Tyson, III .....	261-4615
<i>Judge</i>	
The Honorable John O. Harris .....	261-4617
<i>Judge</i>	

The Honorable Bishop Barron .....	261-4577
<i>Judge</i>	
The Honorable William M. Bowen .....	261-4573
<i>Judge</i>	

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The Honorable L. Charles Wright .....	261-4096
<i>Presiding Judge</i>	
The Honorable Robert P. Bradley .....	261-4099
<i>Judge</i>	
The Honorable Robert J. Russell .....	261-4101
<i>Judge</i>	

### CLERKS OF APPELLATE COURTS

State of Alabama  
September, 1980

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<i>Clerk of the Supreme Court</i>	
Judicial Building	
Montgomery, Al. 36130	
The Honorable Mollie Jordan .....	
<i>Clerk, Court of Criminal Appeals</i>	
Judicial Building	
Montgomery, Al. 36130	
The Honorable John H. Wilkerson, Jr. ....	
<i>Clerk, Court of Civil Appeals</i>	
2600 East South Blvd.	
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### ALABAMA STATE UNIVERSITY

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Montgomery, Al. 36195  
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Telephone 348-5121

*Interim Chancellor* ..... Samuel Earle G. Hobbs

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<i>Northwest Alabama State Technical College</i>	
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1989**

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Mobile 36606

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William Clark ..... 711 Atmore Ave.  
Prichard 36612

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Grand Bay 36541

# SUBJECT INDEX

## REGULAR SESSION 1989

# INDEX TO ACTS

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